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CENTRAL DISTRICT OF CALIFORNIA
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Lead Counsel for Plaintiff

[Additional counsel appear on signature page.]

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

JIM BROWN, Individually and On Behalf of All Others Similarly Situated,

Plaintiff,

vs.

BRETT C. BREWER, DANIEL L. MOSHER, LAWRENCE MOREAU, JEFFREY SCOTT EDELL, BRADLEY G. WARD, DAVID S. CARLICK, ANDREW SHEEHAN, CHRISTOPHER S. LIPP, RICHARD ROSENBLATT, JAMES QUANDT, WILLIAM WOODWARD, THOMAS WEISEL PARTNERS GROUP, INC., THOMAS WEISEL PARTNERS LLC, MONTGOMERY & CO., LLC, VANTAGEPOINT VENTURE PARTNERS, VP ALPHA HOLDINGS IV LLC, VANTAGPOINT VENTURE PARTNERS IV (Q) LP,

No. CV-06-03731-GHK(JTLx)

CLASS ACTION

CONSOLIDATED SECOND AMENDED COMPLAINT

DEMAND FOR JURY TRIAL

[Caption continued on following page.]

VANTAGEPOINT VENTURE PARTNERS IV LP and VANTAGEPOINT VENTURE PARTNERS IV PRINCIPALS FUND LP,

Defendants,

INTRODUCTION

1. This is a stockholder class action brought on behalf of the holders of the common stock of Intermix Media, Inc. ("Intermix" or the "Company") against certain senior officers and directors of Intermix (the "Individual Defendants"), its Investment Banks Weisel[1] and Montgomery & Co., LLC ("Montgomery") (collectively, the "Investment Banks") and its venture capitalist investor VantagePoint Venture Partners ("VantagePoint") arising out of the unfair sale of Intermix to News Corporation ("News Corp."), in violation of federal and state law, and defendants' violations of §14(a) of the Securities Exchange Act of 1934 (the "1934 Act") and Securities and Exchange Commission ("SEC") Rule 14a-9 promulgated thereunder.[2]

2. Defendants participated in a course of conduct that commenced no later than the third quarter of 2003, as certain of the defendants began to fully comprehend the true value of MySpace.com ("MySpace"), a website the Company acquired and began to develop in 2002. Defendants first obtained control of the Company in late 2003, and thereafter completed the sale of Intermix to News Corp. in 2005 at a price that did not adequately value the Company's crown-jewel asset, MySpace, in order to secure personal benefits for themselves at the expense of the Company's public shareholders.

3. Specifically, on or about December 30, 2003, the Board of Directors ("Board") of eUniverse caused a proxy statement to be filed with the SEC and disseminated in connection with a shareholder vote to be held on January 29, 2004 (the "2003 Proxy"). The false and misleading 2003 Proxy was utilized to: (i) secure reelection of the Board; and (ii) obtain shareholder approval of the terms of an

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[1] "Weisel" collectively refers to defendants Thomas Weisel Partners Group, Inc. and Thomas Weisel Partners LLC.

[2] Intermix was known as eUniverse, Inc. ("eUniverse") until July 15, 2004, when it changed its name to Intermix Media, Inc.

agreement the Board had caused eUniverse to enter into with VantagePoint, a California-based venture capital firm.[3]

4. In 2005, subsequent to securing control of the Company following the issuance of the false and misleading 2003 Proxy, defendants undertook a flawed sales process designed to favor themselves and Company insiders to the detriment of Intermix's public shareholders, culminating in the sale of Intermix to News Corp. at the inadequate and unfair price of $12 per share – a price that did not adequately value Intermix's MySpace asset (the "Acquisition"). As a result of the Acquisition, defendants secured: (i) extinguishment of outstanding derivative suits charging defendants with misconduct in connection with accounting violations, insider trading and an adware/spyware scam; (ii) a deeper pocket to indemnify themselves for any outstanding suits that weren't extinguished in the Acquisition; and (iii) hundreds of millions of dollars in insider benefits in the form of continued employment, accelerated stock options, and preferred stock preferences.

5. Thereafter, on or about August 25, 2005, the Intermix Board together with the Investment Banks and VantagePoint caused a proxy statement to be filed with the SEC and disseminated in connection with a September 30, 2005 shareholder vote (the "2005 Proxy"). The false and misleading 2005 Proxy was utilized to obtain shareholder approval of the sale of the Company to News Corp. and deprive Intermix shareholders of the full value of their interests in Intermix. The preparation and dissemination of the false and misleading proxy statements induced shareholder action which resulted in substantial harm to plaintiff and Intermix's other shareholders.[4]

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[3] VantagePoint is a Delaware limited partnership with its principle place of business in San Francisco, California.

[4] The relevant time period for this action is December 30, 2003 through September 30, 2005 (the "Relevant Period").

6. On September 30, 2005, defendants completed the sale of the Company – and its crown jewel asset MySpace – to News Corp., via numerous breaches of defendants' fiduciary duties and pursuant to the false and misleading 2005 Proxy.

7. The Company's public stockholders suffered billions of dollars in damages as a result of defendants' preparation and dissemination of false and misleading proxy statements in violation of federal law and breaches of fiduciary duty in connection with the Acquisition.

THE ACTION

JURISDICTION AND VENUE

8. This Court has jurisdiction over all claims asserted herein pursuant to 28 U.S.C. §1332, because complete diversity exists between plaintiff Jim Brown, who is a citizen of Massachusetts, and each defendant because no defendant is a citizen of Massachusetts. The Court also has jurisdiction pursuant to 28 U.S.C. §1331, as plaintiff's claims arise in part out of the laws of the United States, §27 of the 1934 Act and for violations of §§14(a) and 20(a) of the 1934 Act and SEC Rule 14a-9 promulgated thereunder.

9. Venue is proper in this District because Intermix had its principle place of business in this District. Plaintiff's claims arose in this District and plaintiff suffered harm in this District, where most of the actionable conduct took place, where most of the documents are electronically stored and where the evidence exists, and where virtually all the witnesses are located and available to testify live at the jury trial permitted on these claims in this Court. Moreover, each individual defendant, as Company officers and/or directors, has extensive contacts with this District.

PARTIES

10. Plaintiff Jim Brown acquired 1000 shares of Intermix common stock on July 13, 2000. Plaintiff Brown held his shares on the record date for the January 29, 2004 and September 30, 2005 shareholder votes and throughout the Relevant Period. Plaintiff Brown is a citizen of Massachusetts.

11. Defendant Brett C. Brewer ("Brewer") served as President of the Company and a director since August 29, 2000. Brewer is a citizen of California. Brewer was a director throughout the Relevant Period and was responsible for the preparation, review and/or dissemination of the 2003 Proxy and the 2005 Proxy, both of which were false and misleading when filed with the SEC, disseminated to Intermix shareholders and voted upon by shareholders at the January 2004 and September 2005 shareholder meetings. By preparing, reviewing and/or disseminating the false and misleading 2003 Proxy, Brewer was able to maintain his seat on the Intermix Board, procure millions of dollars worth of personal benefits in the form of continued employment and stock option grants and ensure that the VantagePoint Transactions were approved by Intermix shareholders. Brewer beneficially owned almost 1.2 million shares of the Company's common stock, giving him significant influence over the Board. Brewer also received material personal benefits in connection with the Acquisition and his preparation, review and/or dissemination of the 2005 Proxy, including the expectation that the consummation of the Acquisition would extinguish his liability in the existing derivative suits, indemnify him for prior and contemporaneous misconduct, and immediately monetize his illiquid stock holdings in the Company.

12. Defendant Daniel L. Mosher ("Mosher") was a director since December 8, 1999. Mosher is a citizen of California. Mosher also served as a member of the Company's Audit and Nominating Committees. Mosher was a director throughout the Relevant Period and was responsible for the preparation, review and/or dissemination of the 2003 Proxy and the 2005 Proxy, both of which were false and misleading when filed with the SEC, disseminated to Intermix shareholders and voted upon by shareholders at the January 2004 and September 2005 shareholder meetings. By preparing, reviewing and/or disseminating the false and misleading 2003 Proxy, Mosher was able to maintain his seat on the Board. Mosher also procured material personal benefits in connection with the Acquisition and his preparation, review

and/or dissemination of the 2005 Proxy, including the expectation that the Acquisition would extinguish his liability in the existing derivative suits, indemnify him for prior and contemporaneous misconduct, and immediately monetize his illiquid stock holdings in the Company.

13. Defendant Lawrence Moreau ("Moreau") was a director since May 22, 2003. Moreau is a citizen of California. Moreau was a director throughout the Relevant Period and was responsible for the preparation, review and/or dissemination of the 2003 Proxy and the 2005 Proxy, both of which were false and misleading when filed with the SEC, disseminated to Intermix shareholders and voted upon by shareholders at the January 2004 and September 2005 shareholder meetings. By preparing, reviewing and/or disseminating the false and misleading 2003 Proxy, Moreau was able to maintain his seat on the Board. Moreau also procured material personal benefits in connection with the Acquisition and his preparation, review and/or dissemination of the 2005 Proxy, including the expectation that the consummation of the Acquisition would extinguish his liability in the existing derivative suits, indemnify him for prior and contemporaneous misconduct, and immediately monetize his illiquid stock holdings.

14. Defendant Jeffrey Scott Edell ("Edell") served as a director from October 14, 2003 to December 7, 2004. Edell is a citizen of California. Edell served as Chairman of the Board and as a member of the Company's Compensation and Audit Committees. Edell was responsible for preparing, reviewing and/or disseminating the materially false and misleading 2003 Proxy, and in so doing enabled himself to maintain his seat on the Board.

15. Defendant Bradley G. Ward ("Ward") served as a director from October 16, 2003 to June 2, 2004. Ward is a citizen of Nevada. Ward served on the Company's Compensation Committee. Ward was responsible for preparing, reviewing and/or disseminating the materially misleading 2003 Proxy, and in so doing enabled himself to maintain his seat on the Board.

16. Defendant David S. Carlick ("Carlick") served as a director since October 31, 2003. Carlick is a citizen of California. Carlick was a member of the Company's Nominating Committee. Throughout the Relevant Period, Carlick was a director of Intermix and a managing director of VantagePoint. Carlick was responsible for the preparation, review and/or dissemination of the 2003 Proxy and the 2005 Proxy, both of which were false and misleading when filed with the SEC, disseminated to Intermix shareholders and voted upon by shareholders at the January 2004 and September 2005 shareholder meetings. As a result of his preparing, reviewing and/or disseminating the 2003 Proxy, Carlick secured and maintained his seat on the Board. Carlick also procured tens, if not hundreds, of millions of dollars in benefits for himself and/or VantagePoint via the VantagePoint transaction that was improperly approved via the false and misleading 2003 Proxy. By virtue of his position as a principal of VantagePoint and VantagePoint owning a 22% interest of the Company, Carlick possessed and exercised significant influence and control over the Intermix Board. Carlick also procured tens, if not hundreds, of millions of dollars of benefits for himself and VantagePoint as a result of the Acquisition and his preparation, review and/or dissemination of the 2005 Proxy, including the expectation that the Acquisition would extinguish his liability in the existing derivative suits, indemnify him and VantagePoint for their prior and contemporaneous misconduct and result in preferential financial treatment for his and VantagePoint's stock holdings in the Company.

17. Defendant Andrew Sheehan ("Sheehan") served as a director since October 31, 2003. Sheehan is a citizen of California. Sheehan was a member of the Company's Compensation Committee. Throughout the Relevant Period, Sheehan was a director of Intermix and a managing director of VantagePoint. Sheehan was responsible for the preparation, review and/or dissemination of the 2003 Proxy and the 2005 Proxy, both of which were false and misleading when filed with the SEC, disseminated to Intermix shareholders and voted upon by shareholders at the January

2004 and September 2005 shareholder meetings. As a result of his disseminating the 2003 Proxy, Sheehan secured and maintained his seat on the Board. Sheehan also procured tens, if not hundreds, of millions of dollars of benefits for himself and/or VantagePoint via the VantagePoint transaction that was approved via the false and misleading 2003 Proxy. By virtue of his position as a principal of VantagePoint and VantagePoint owning a 22% interest of the Company, Sheehan possessed and exercised significant influence and control over the Intermix Board. Sheehan also procured tens, if not hundreds, of millions of dollars of benefits for himself and/or VantagePoint as a result of the Acquisition and his preparation, review and/or dissemination of the 2005 Proxy, including the expectation that the Acquisition would extinguish his liability in the existing derivative suits, indemnify him and VantagePoint for their prior and contemporaneous misconduct and result in preferential financial treatment for his and VantagePoint's stock holdings in the Company.

18. Defendant Christopher S. Lipp ("Lipp") was Senior Vice President and General Counsel of Intermix – a position he served in since October 26, 2001 and continued in after the Acquisition. Lipp is a citizen of California. Lipp was responsible for the preparation, review and/or dissemination of the 2003 Proxy and the 2005 Proxy, both of which were false and misleading when filed with the SEC, disseminated to Intermix shareholders and voted upon by shareholders at the January 2004 and September 2005 shareholder meetings. As a result of his participation in the preparation, review and dissemination of the 2003 Proxy, Lipp procured substantial personal benefits in the form of continued employment and millions of dollars in stock option grants. Lipp also procured material benefits as a result of the Acquisition and his disseminating the 2005 Proxy, including the expectation that the Acquisition would extinguish his liability in the existing derivative suits, indemnify him for prior and contemporaneous misconduct, and immediately monetize his illiquid stock holdings in the Company.

19. Defendant Richard Rosenblatt ("Rosenblatt") became a director and was Chief Executive Officer ("CEO") of the Company from February 2004 until after the Acquisition. Rosenblatt is a citizen of California. Rosenblatt was promised by News Corp. that he would retain and did retain his position with the Company. Rosenblatt was responsible for the preparation, review of and/or dissemination of the false and misleading 2005 Proxy. Rosenblatt procured tens of millions of dollars of personal benefits as a result of shareholder approval of the Acquisition, including lucrative employment benefits with News Corp., and the expectation that the Acquisition would extinguish his liability in pending derivative suits, provide indemnification for prior and contemporaneous misconduct, and monetize his illiquid Intermix stock holdings.

20. Defendant James Quandt ("Quandt") served as a director of the Company since June 2004. Quandt is a citizen of California. Quandt was responsible for the preparation, review and/or dissemination of the materially misleading 2005 Proxy, pursuant to which Quandt procured material benefits including the expectation that the Acquisition would extinguish his liability in the existing derivative suits, indemnify him for prior and contemporaneous misconduct, and monetize him illiquid stock holdings in the Company.

21. Defendant William Woodward ("Woodward") was a director since February 9, 2005. Woodward is a citizen of California. Woodward was responsible for the preparation, review and/or dissemination of the false and misleading 2005 Proxy, which was designed to extinguish defendants' liability arising out of the existing derivative suits, indemnify him for prior and contemporaneous misconduct, and obtain preferential treatment for his and VantagePoint's stock holdings in the Company.

22. Defendant Weisel is an investment bank with its principle place of business in San Francisco, California. It is the successor in interest to Thomas Weisel Partners LLC. Upon information and belief, defendant Thomas Weisel Partners LLC is a subsidiary of Thomas Weisel Partners Group, Inc. Thomas Weisel Partners LLC

is a Delaware limited liability company with its principal place of business in San Francisco, California. Thomas Weisel Partners Group, Inc. and Thomas Weisel Partners LLC are collectively referred to herein as "Weisel." Weisel prepared and issued a false and misleading fairness opinion on the consideration to be received by Intermix in the Acquisition. Weisel consented to the incorporation of the fairness opinion into the 2005 Proxy.

23. Defendant Montgomery is an investment bank that issued a false and misleading fairness opinion on the merger between Intermix and an affiliate of News Corp. That fairness opinion was incorporated into the 2005 Proxy. Montgomery is a Delaware limited liability company with its principal place of business in Santa Monica, California. Montgomery consented to the incorporation of the fairness opinion into the 2005 Proxy.

24. Defendant VantagePoint, including without limitation, defendants VP Alpha Holdings IV, L.L.C., VantagePoint Venture Partners IV (Q), L.P., VantagePoint Venture Partners IV, L.P. and VantagePoint Venture Partners IV Principals Fund, L.P. (collectively, referred to herein as "VantagePoint") at the time of the Acquisition controlled more than 22% of Intermix's voting shares, and was the Company's largest shareholder. VantagePoint is a Delaware limited liability partnership with numerous affiliated entities, and its principal place of business is in San Francisco, California. VantagePoint is controlled by defendants Carlick and Sheehan.

25. Defendants Brewer, Mosher, Moreau, Edell, Ward, Carlick, Sheehan and Lipp are sometimes referred to as the "2003 Individual Defendants." The "2003 Individual Defendants" together with VantagePoint are sometimes referred to as the "2003 Defendants." Defendants Brewer, Mosher, Moreau, Carlick, Sheehan, Lipp, Rosenblatt, Quandt and Woodward are sometimes referred to as the "2005 Individual Defendants." The "2005 Individual Defendants" together with the Investment Banks

and VantagePoint are sometimes collectively referred to herein as the "2005 Defendants."

26. Non-party Intermix was a Delaware corporation with its principal executive offices located at 6060 Center Drive, Suite 300, Los Angeles, California 90045. Intermix changed its name from eUniverse to Intermix Media, Inc. on July 15, 2004. Intermix was an interactive entertainment network that operates a network of websites and email newsletters providing users with entertainment content, products and services. The Company was one of the largest entertainment and media networks on the Internet serving over 50 million subscribers each month. The Company's entertainment-related websites focused on music, film and interactive entertainment and its web properties included online retailers of music products, video cassettes and laser discs, and computer games. On September 30, 2005, Intermix shareholders approved a merger between News Corp. and Intermix pursuant to the false and misleading 2005 Proxy as detailed herein. The Acquisition was consummated the same date. Currently, Intermix now operates as a wholly-owned subsidiary of Fox Interactive Media, Inc. ("Fox"), a wholly owned subsidiary of News Corp.

CLASS ACTION ALLEGATIONS

27. Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of all holders of Intermix common stock during the Relevant Period who were harmed by defendants' actions described below (the "Class"). Excluded from the Class are defendants herein and any person, firm, trust, corporation or other entity related to or affiliated with any defendant.

28. This action is properly maintainable as a class action.

29. The Class is so numerous that joinder of all members is impracticable. According to Intermix's SEC filings, there were more than 35 million shares of Intermix common stock outstanding as of August 10, 2005.

30. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. The common questions include, *inter alia*, the following:

(a) whether the 2005 Individual Defendants breached their fiduciary duties of loyalty, good faith, due care and candor in connection with the Acquisition;

(b) whether the 2005 Individual Defendants breached their fiduciary duties of undivided loyalty, independence or due care with respect to plaintiff and the other members of the Class in connection with the Acquisition;

(c) whether the 2005 Individual Defendants breached their fiduciary duty to secure and obtain the best price reasonable under the circumstances for the benefit of plaintiff and the other members of the Class in connection with the Acquisition;

(d) whether the Acquisition was unfair because it was entered into via an unfair process and at an unfair price;

(e) whether the 2005 Individual Defendants engaged in self-dealing in connection with the Acquisition;

(f) whether the 2005 Individual Defendants unjustly enriched themselves and other insiders or affiliates of Intermix;

(g) whether the 2005 Individual Defendants breached any of their other fiduciary duties to plaintiff and the other members of the Class in connection with the Acquisition, including the duties of loyalty, due care, good faith, diligence, honesty, candor and fair dealing, and/or other fiduciary duties;

(h) whether the 2005 Individual Defendants, in bad faith and for improper motives, impeded, erected and/or retained barriers to discourage other offers for the Company or its assets;

(i) whether the 2005 Individual Defendants bear the burden of establishing the entire fairness of the Acquisition;

(j) whether the 2003 Defendants violated §§14(a) and 20(a) of the 1934 Act and SEC Rule 14a-9 by filing a materially misleading definitive proxy;

(k) whether the 2005 Defendants violated §§14(a) and 20(a) of the 1934 Act and SEC Rule 14a-9 by filing a materially misleading definitive proxy; and

(l) whether plaintiff and the other members of the Class have been damaged as a result of the conduct detailed herein.

31. Plaintiff's claims are typical of the claims of the other members of the Class and plaintiff does not have any interests adverse to the Class.

32. Plaintiff is an adequate representative of the Class, has retained competent counsel experienced in litigation of this nature and will fairly and adequately protect the interests of the Class.

33. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for the party opposing the Class.

34. Plaintiff anticipates that there will be no difficulty in the management of this litigation. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

35. Defendants have acted on grounds generally applicable to the Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

DEFENDANTS' DUTIES

36. The Individual Defendants, because of their positions of control and authority as directors and/or officers of the Company, were able to and did, directly and/or indirectly, participate in, authorize or acquiesce in the wrongful acts complained of herein.

37. To discharge their duties, the officers and directors of the Company were required to exercise reasonable and prudent supervision over the management,

policies, practices and controls of the Company. By virtue of such duties, the officers and directors of the Company were required to, among other things:

(a) ensure that the affairs of the Company were conducted in an efficient, businesslike manner so as to make it possible to provide the highest quality performance of their business;

(b) ensure that the Company was operated in a diligent, honest and prudent manner and complied with all applicable federal and state laws, rules, regulations and requirements, including complying with rules and regulations issued by the SEC, state regulatory agencies and state and federal courts before which the Company appears as a party;

(c) exercise good faith in ensuring that the Company had adequate internal controls such that it is capable of complying with federal law to report all material information to shareholders in the Company's filings with the SEC before shareholder approval of corporate action, and that the Company was actually complying with such laws;

(d) exercise good faith in supervising the preparation and filing of all reports required by law, including reports filed with the SEC, and in examining and evaluating such reports and other information concerning the affairs of the Company; and

(e) exercise good faith in remaining informed regarding the affairs of the Company, including, but not limited to, the Company's compliance with federal law pertaining to its obligations to shareholders, and, upon receipt of notice or information regarding imprudent or unsound conditions or practices, to make reasonable inquiry in connection therewith and take steps to correct such conditions or practices.

38. Furthermore, under Delaware law, in any situation where the directors of a publicly traded corporation undertake a transaction that will result in either (i) a change in corporate control, or (ii) a break up of the corporation's assets, the directors

have an affirmative fiduciary obligation to obtain the highest value reasonably available for the corporation and its shareholders, and if such transaction will result in a change of corporate control, the corporation and its shareholders are entitled to receive a significant premium. To diligently comply with these duties, the directors and/or officers may not take any action that:

(a) adversely affects the value provided to the corporation or its shareholders;

(b) will discourage or inhibit alternative offers to purchase control of the corporation or its assets;

(c) contractually prohibits themselves from complying with their fiduciary duties;

(d) will otherwise adversely affect their duty to search and secure the best value reasonably available under the circumstances for the corporation and its shareholders; and/or

(e) will provide the directors and/or officers with preferential treatment at the expense of, or separate from, the corporation and its public shareholders.

39. In accordance with their duties of loyalty and good faith, the 2005 Individual Defendants, as directors and/or officers of Intermix, were obligated under Delaware law to refrain from:

(a) participating in any transaction where the directors' or officers' loyalties are divided;

(b) participating in any transaction where the directors or officers receive, or are entitled to receive, a personal financial benefit not equally shared by the corporation or its public shareholders; and/or

(c) benefiting themselves at the expense or to the detriment of the corporation and its shareholders.

40. Plaintiff alleges herein that the 2005 Individual Defendants, aided and abetted by the remaining 2005 Defendants, knowingly or recklessly violated their fiduciary duties, including their duties of loyalty, due care, good faith, fair dealing, independence and candor owed to Intermix and its public shareholders in connection with the Acquisition. The 2005 Individual Defendants, aided and abetted by the remaining 2005 Defendants, engaged in self-dealing, and have negotiated for themselves personal benefits, including personal financial benefits and indemnification benefits not shared by Intermix or the Class, or have aided and abetted others who did so. As a result of the 2005 Individual Defendants' self-dealing and divided loyalties, among other things, the negotiation process for the Acquisition was tainted and unfair. The members of the Class were not provided with a fair process or a fair price for their Intermix common stock in the Acquisition.

41. The 2005 Individual Defendants also owe the Company and its stockholders a duty of truthfulness under Delaware law, which includes the disclosure of all material facts concerning the Acquisition. The 2005 Individual Defendants, aided and abetted by the remaining 2005 Defendants, knowingly or recklessly breached their fiduciary duties of candor and good faith by failing to disclose all material information concerning the Acquisition, the true value of the Company and the conflicts of the 2005 Individual Defendants.

42. Because the 2005 Individual Defendants, aided and abetted by the remaining 2005 Defendants, knowingly or recklessly breached their duties of loyalty, good faith, fair dealing, independence and candor in connection with the Acquisition and/or aided and abetted others who did so, the burden of proving the inherent or entire fairness of the Acquisition (including all aspects of its negotiation, structure, price and terms) is placed upon the 2005 Individual Defendants as a matter of law. The 2005 Individual Defendants cannot meet that burden.

BACKGROUND TO DEFENDANTS' ISSUANCE OF THE FALSE AND MISLEADING 2003 PROXY

Defendants Facilitate the VantagePoint Takeover

43. Intermix was an online company that operated through two business units, the Intermix Network and its product marketing unit. The Company's product marketing segment sold products through eCommerce websites and telemarketing centers. The network segment consisted of entertainment and community-oriented branded websites, including its crown jewel MySpace, the World Wide Web's most popular site and a meeting place for millions of people around the world.

44. Intermix was founded in 1999 as an online retailer of music cds. Within two years, the Company had evolved into a network of websites focusing on games and entertainment. Notwithstanding the internet meltdown of 2000, Intermix continued to operate successfully, reaching a level of traffic on its website that by 2002 placed it in the top 20 nationwide websites nationwide in terms of internet traffic.

45. On September 9, 2002, Intermix purchased ResponseBase, an email marketing firm whose assets included the domain name MySpace. At the time, MySpace was being used to peddle a motorized contraption, made in China and called an E-Scooter, for $99.

46. Nearly a year later, on May 6, 2003, the Company ran into financial trouble when it announced that it would have to restate its previously reported financial results for 2003, which had overstated both the Company's revenues and net income by more than $12 million. NASDAQ halted trading in Intermix shares after the restatement was announced and ordered trading of the Intermix shares would remain halted until the Company supplied accurate financial information. Also in May 2003, the Company announced that the SEC had commenced an informal inquiry concerning the Company's accounting issues, and that Intermix had been sued for violations of the federal securities laws.

47. In the summer of 2003, as a result of the Company's announcement that it would have to restate its financial results, numerous lawsuits were filed by Intermix shareholders in state and federal courts, charging Intermix and certain of its officers and directors with violations of applicable law. The lawsuits alleged, among other things, that the Company and its officers and directors had issued false and misleading statements about the Company's financial results in order to sell their own Intermix stock at artificially inflated levels.

48. In addition to these state and federal securities lawsuits, numerous derivative lawsuits were filed against the Company's directors, alleging that they had breached their fiduciary duties and engaged in other misconduct in causing the Company to violate securities laws. These derivative lawsuits further alleged that the Company's directors had unjustly enriched themselves and other Company insiders by illicitly profiting from Intermix's violations of securities laws.

49. In August 2003, the Company decided to re-launch MySpace as a social networking database modeled after an existing website known as Friendster. Within ten days, the Company had relaunched MySpace, using its own employees as a start-up database. The Company soon set up MySpace as a separate unit, retaining a 66% interest in the social networking site.

50. In September 2003, NASDAQ delisted the Company's securities from the NASDAQ SmallCap Market, and the Company's securities began to trade on the "Pink Sheets." As a result of the delisting from NASDAQ, the Company was in financial straits, with its stock essentially frozen. And, due to significant costs associated with the accounting restatement and defendants' misconduct, the Company was facing excessive debt and possible bankruptcy. In order to secure funds to address these issues, and raise capital to fund eUniverse's newly-launched MySpace website, the Company's CEO, Brad Greenspan ("Greenspan"), sought out equity investors willing to provide the Company the cash it needed. After contacting several

potential investors, Greenspan reached an agreement with VantagePoint to provide financing for eUniverse (the "VantagePoint Transactions").

51. The financing was to occur in two phases. First, VantagePoint was to provide the Company with a $2 million cash infusion in exchange for an 8% note and the agreement of VantagePoint to retire an outstanding $500,000 promissory note owed by the Company. As part of this first phase of the VantagePoint Transactions, VantagePoint also entered into an agreement with a subsidiary of Sony Corporation of America ("Sony"), 550 Digital Media Ventures (one of the Company's existing preferred shareholders), acquiring an option from 550 Digital Media Ventures to purchase up to 3,050,000 shares of the Company's common stock and 1,750,000 shares of Series B preferred stock at $1.10 per share. VantagePoint later exercised this option.

52. Second, the VantagePoint Transactions granted VantagePoint the right to invest an additional $8 million in Intermix in the form of a preferred stock investment at $1.50 a share. The VantagePoint Transactions also provided that VantagePoint would supply Intermix with a $20 million line of credit to be used to fund future mergers and acquisitions. VantagePoint had 75 days to consummate the second phase of the transaction.

53. When requested to perform on its obligation under the second phase of the VantagePoint financing, VantagePoint began to delay, requesting multiple extensions to the original schedule. By September 2003, Greenspan became concerned that VantagePoint was utilizing the delay tactically as a ploy to force the cash-strapped Company to agree to terms that were more favorable for VantagePoint than those agreed to originally.

54. As Greenspan sought to finalize the terms of the second phase of the VantagePoint Transactions, VantagePoint told Greenspan that it intended to renege on its promise to provide the Company the $20 million line of credit. Instead, VantagePoint attempted to use its leverage by stating that it would provide additional

funds ***only*** if VantagePoint would receive in exchange an even greater equity stake in Intermix – a condition that had not been part of the original agreement.

55. The revised financing terms proposed by VantagePoint were not in the Company's best interests and were highly unfavorable to the Company. In fact, the terms VantagePoint sought were likely to place Intermix in breach of NASDAQ's "change in control" requirement and hamper the Company's ability to be relisted on NASDAQ. Moreover, even though the Company's stock was trading only on the Pink Sheets, it had nonetheless risen above $2 per share, demonstrating that VantagePoint's proposed $8 million investment at $1.50 per share vastly undervalued the Company. Consequently, Greenspan, with the Board's approval, attempted to find alternative financing that was more beneficial to the Company.

56. After meeting with several of the Company's institutional investors during October 2003, Greenspan began to implement a strategy whereby a number of institutional investors would collectively invest $2.5 million in the Company at $1.85 a share. This strategy came to be known as the "common stock financing." VantagePoint was to be invited to participate in the common stock financing on the same terms as other investors.

57. The Board approved the common stock financing at a meeting on or about October 16, 2003, and agreed to act according to this strategy so long as it was completed prior to the second phase of the VantagePoint Transactions. Greenspan obtained the documents necessary to close the common stock financing by October 23, 2003. Greenspan subsequently contacted VantagePoint and informed them that their right to invest had expired pursuant to the second phase of their original agreement, but that they could still invest in the common stock financing, together with other institutional investors, at $1.85 per share.

58. Due to the 2003 Defendants' fraudulent, manipulative, deceitful and/or contrived conduct, however, set forth *infra* in ¶74, the common stock financing was never consummated. Instead, the 2003 Defendants were able to secure the Board's

approval to implement the VantagePoint Transactions, and, in the process, oust Greenspan from his role as CEO and Chairman.

59. On November 3, 2003, Intermix announced the VantagePoint transaction in an 8-K filed with the SEC. Defendants explained that the $8 million financing package included: (i) VantagePoint's purchase of 5,333,333 shares of a new series of preferred stock (Series C) for $1.50 per share; (ii) VantagePoint's loan of $2 million to the Company; and (iii) VantagePoint's purchase of $500,000 of debt the Company owed an indirect subsidiary of Sony and an accompanying option to acquire certain common stock and Series B preferred stock of the Company owned by the Sony affiliate. Defendants further noted that, ***if shareholders vote to approve the financing***, VantagePoint would loan up to $4 million to the Company in exchange for: (i) the Company converting $2.5 million in existing Company debt held by VantagePoint into Series C-1 preferred stock at $2.00 per share; and (ii) the Company issuing VantagePoint a warrant to purchase up to 1,000,000 shares of the Company's Series C preferred stock at $2.00 per share. Defendants also noted that, as part of its investment, VantagePoint had been given two seats on the Board, which would be filled by Carlick and Sheehan, Managing Directors of VantagePoint Management, Inc.

60. As of November 15, 2003, Greenspan was no longer privy to internal information regarding the Company's financial prospects, including the ability to assess the impact of the VantagePoint financing on the Company's net operating loss carryforwards ("NOLs").

61. On December 11, 2003, Greenspan resigned from the Board, and sent a letter to the Board, which read in relevant part:

> It is with deep regret that I hereby resign my position as a director . . . of eUniverse, Inc. . . . It is my belief that certain directors of the Board, inspired by their own interests, have embarked upon a scheme to entrench themselves in office. By doing so, I believe these directors have breached their fiduciary duties to the Company and its

stockholders. In addition, I believe the actions and terms of the VantagePoint investment (approved without my consent) may have a material adverse impact on the Company's ability to relist its common stock on The Nasdaq SmallCap Market. Therefore, I am compelled to take this unfortunate step for many reasons.

I have made no secret of the fact that I do not support the re-nomination of certain directors to the Board. As the holder of approximately 23% of the Company's voting securities, apparently I have been perceived as a threat to the incumbency of these directors. I believe that perceiving that their positions were in jeopardy, these directors excluded me from the nominating committee, thereby ensuring that they would control the nomination process.

On October 31, 2003, the Board (without my consent) approved a transaction with VantagePoint Alpha Holdings IV L.L.C. ("VantagePoint") that included, among other things, the initial issuance of 5,333,333 shares of Series C preferred stock to VantagePoint at $1.50 per share. In doing so, I believe that the Board unwound a substantially more favorable and less dilutive institutional common stock private placement at $1.85 per share that had previously been approved by the Board. . . . [in] breach of their fiduciary duties. As I indicated previously, I believe that the terms of the VantagePoint investment may have a material adverse impact on the Company's ability to relist its common stock on The Nasdaq SmallCap Market. I opposed the issuance to VantagePoint for these reasons, and as a result of my opposition was removed as Chairman of the Board and effectively forced to resign as Chief Executive Officer.

62. On December 10, 2003, Greenspan filed a complaint with the Court of Chancery of the State of Delaware, alleging that the Board, *inter alia*: (i) improperly

transferred control of the Company to VantagePoint; (ii) reduced the number of directors to be elected by the common stockholders to less than a majority of the Board; (iii) manipulated the electoral process of the Company; and (iv) disregarded agreements entered into for the protection of Intermix's common stockholders.

The Issuance of the False and Misleading 2003 Proxy

63. On December 19, 2003, the 2003 Defendants announced that the Company's annual meeting of stockholders would take place on January 29, 2004.

64. Having been informed that Greenspan was making plans to run his own slate of directors and oppose any directors proposed by the Board who sought shareholder ratification of the revised VantagePoint transaction on December 30, 2003, the 2003 Defendants filed the 2003 Proxy with the SEC and disseminated it to Intermix shareholders. The 2003 Proxy was prepared, reviewed and/or disseminated by defendants Brewer, Mosher, Moreau, Edell, Ward, Carlick, Sheehan and Lipp and solicited, among other things, shareholder approval of: (i) the election of defendants Brewer, Mosher, Moreau and Ward as directors; and (ii) the issuance of a warrant to VantagePoint to purchase preferred shares of eUniverse stock at \$2 per share, and the conversion of a \$2.5 million note held by VantagePoint into additional preferred shares of eUniverse stock at \$2 per share.

65. The 2003 Proxy was false and misleading in that it failed to disclose that the VantagePoint Transactions, if approved, would virtually eliminate the Company's ability to use over \$60 million worth of Intermix's valuable federal and state NOLs. Specifically, the 2003 Proxy omitted the fact that by consummating the revised VantagePoint transaction, the Company would be deprived of its ability to use over 90% of its federal NOLs and almost 75% of its valuable state NOLs.

66. Defendants made a number of statements in the 2003 Proxy that were rendered misleading by their failure to disclose that the VantagePoint Transactions, if approved, would virtually eliminate the Company's ability to use over \$60 million worth of Intermix's valuable federal and state NOLs, including:

(a) The text set forth on pages 16-18 of the 2003 Proxy, under the heading "Proposal 2 – To Approve the Issuance of a Warrant to VantagePoint if We Draw Down on a $4 Million Loan Commitment and the Modification of the Terms of an Existing Note Due to VantagePoint, including the Preferred Stock Issuable on Exercise or Conversion and the Conversion of the Preferred Stock into Common Stock at the Applicable Conversion Rate," which purported to explain the full extent of the VantagePoint Transactions:

> On October 31, 2003, VantagePoint invested $8 million in our Company by purchasing 5,333,333 shares of a new series of convertible preferred stock, designated Series C convertible preferred stock. VantagePoint will receive an additional 426,667 shares of Series C preferred stock as dividends during the year ended October 31, 2004. The Company allocated 20 million shares of authorized preferred stock for the Series C preferred stock and has reserved shares of common stock for conversion of the Series C preferred stock into common stock. In addition, on July 15, 2003, 550 Digital Media Ventures and VantagePoint entered into an option agreement pursuant to which VantagePoint may purchase up to 3,050,000 shares of our common stock and 1,750,000 shares of our Series B preferred stock owned by 550 Digital Media Ventures until January 16, 2004. On October 31, 2003, the option term was extended to April 16, 2004 and VantagePoint agreed to partially exercise its option and purchase 454,545 shares of our Series B preferred stock from 550 Digital Media Ventures for $500,000. 550 Digital Media Ventures also agreed to release the Company from any claims that it may have, other than claims relating to the outstanding $1,790,000 convertible secured promissory note held by 550 Digital Media Ventures, including the related security interest, and any current advertising arrangements with the Company. In connection with the

transaction, 550 Digital Media Ventures waived its anti-dilution protection, preemptive rights and rights of first refusal. 550 Digital Media Ventures agreed to vote in favor of VantagePoint's investment and loan transactions at any Company stockholder meeting or by written consent and not sell any of its Company stockholdings until such transactions are completed.

As consideration for the option, 550 Digital Media Ventures sold to VantagePoint a $500,000 convertible promissory note due from the Company. In anticipation of the preferred stock investment, on July 15, 2003, VantagePoint loaned $2 million to the Company. VantagePoint and the Company agreed to terminate the $500,000 convertible promissory note and issue to VantagePoint a new $2.5 million promissory note. The $2.5 million note bears interest at 8% and is collateralized by a security interest in all of the Company's assets. The Company and VantagePoint also agreed that in the event that VantagePoint does not exercise the option within 120 days of its grant, VantagePoint may transfer the option to the Company in exchange for a warrant to purchase 200,000 shares of the Company's Series B preferred stock at $2.50 per share expiring three years from the date of issuance. This term has now expired and VantagePoint may not transfer the option to the Company.

On October 31, 2003, VantagePoint agreed to make available to the Company or give a bank guarantee for a bank to make available to the Company, a $4 million one-year senior secured bridge loan for certain proposed new business ventures. The bridge loan would bear interest at the prime rate and be secured by a security interest in all of our assets that is senior to the $2.5 million note from VantagePoint and the $1,790,000 note with 550 Digital Media Ventures. The senior

secured bridge loan will be available to the Company to be drawn down until February 28, 2004. If the Company draws upon the senior secured bridge loan, for each $1 million in loan proceeds we receive the Company will issue a warrant to purchase 250,000 shares of Series C preferred stock at $2.00 per share expiring five years from the date of issuance (the "Bridge Warrant"). In addition, as of October 31, 2003, the Company amended the terms of the $2.5 million note due to VantagePoint to change the due date to February 8, 2004 (ten days after the annual stockholder's meeting) and agreed to seek stockholder approval to permit VantagePoint to convert the note to a prospective series of Company preferred stock, which will be designated Series C-1 preferred stock, at the rate of one share for each $2.00 of principal. If the stockholders approve the addition of the conversion feature to the note, the maturity date of the note will be October 31, 2004.

In connection with the VantagePoint transactions, the Company entered into a management rights agreement pursuant to which VantagePoint is entitled to consult with and advise the Company's management on significant business issues, inspect the Company's books and records and appoint a representative to attend all meetings of the Board as a non-voting observer.

As part of the transaction, VantagePoint appointed Andrew Sheehan and David Carlick to the Company's Board. The Company entered into indemnification agreements with Mr. Sheehan and Mr. Carlick that grant the new directors more extensive indemnity rights than provided under the Delaware General Corporate Law.

The net proceeds, if any, from the exercise of the Bridge Warrant are expected to be used to fund working capital and general corporate purposes, and could result in the issuance of 1,000,000 additional shares

of Series C preferred stock, a 2.8% increase in the number of outstanding shares. If the $2.5 million convertible secured promissory note payable to VantagePoint is converted to Series C-1 preferred stock, the current portion of long-term debt would be reduced by $2.5 million, stockholders' equity would be increase by $2.5 million and 1,250,000 shares of Series C-1 preferred stock would be issued. This would represent a 3.4% increase in the number of outstanding shares. The Company's cash and cash equivalents at September 30, 2003 were $2.0 million and the Company raised approximately $10.5 million in proceeds from private placements of preferred and common stock subsequent to September 30, 2003.

The NASDAQ Marketplace Rules require listed companies to obtain stockholder approval prior to issuing 20% or more of their common stock or voting power. In the aggregate, the VantagePoint transactions could result in the issuance of additional securities that are greater than 20% of the Company's outstanding common stock, on an as-converted basis. Although the Company was delisted from The NASDAQ SmallCap Market, we have appealed the NASDAQ Listing Qualifications Hearings Panel's decision and are seeking reinstatement on The NASDAQ SmallCap Market. As such, the Company is determined to comply with all NASDAQ rules and regulations. Therefore, we are seeking to obtain stockholder approval for the issuance to VantagePoint of the shares of Series C and C-1 preferred stock underlying the amended and restated $2.5 million convertible secured promissory note and the Bridge Warrant, including the preferred stock issuable on exercise or conversion and the conversion of the preferred stock into common stock at the applicable conversion rate. The Bridge

Warrant and the amended and restated $2.5 million convertible secured promissory note are attached as Appendix A and D, respectively.

(b) The following statement under the heading "Recommendation of the Board," set forth on page 18 of the 2003 Proxy:

> The Board recommends a vote "FOR" the approval of (1) the issuance to VantagePoint of up to 1,000,000 shares of eUniverse, Inc. Series C preferred stock issuable upon the exercise of the warrant issued as consideration for the $4 million bridge loan to the Company and (2) the issuance of the shares of Series C-1 preferred stock issuable upon the conversion of the amended and restated $2.5 million convertible secured promissory note payable to VantagePoint that are convertible into common stock at the applicable conversion rate.

67. The omission from the 2003 Proxy of the fact that the VantagePoint Transactions, if approved, would virtually eliminate the Company's ability to use over $60 million worth of Intermix's valuable federal and state NOLs rendered the foregoing sections misleading because, absent disclosure of the impact of the VantagePoint Transactions on the Company's ability to take advantage of its outstanding NOL's, Intermix shareholders were mislead into believing that voting in favor of the VantagePoint Transactions would not result in an immediate and definite $60 million diminution in the value of their shares.

68. In order to render the foregoing not misleading, the 2003 Defendants should have disclosed in the 2003 Proxy, at a minimum: (i) the fact that the VantagePoint Transactions, if approved, would virtually eliminate the Company's ability to use over $60 million worth of Intermix's valuable federal and state NOLs; and (ii) that the Board's recommendation that Intermix shareholder's vote in favor of the VantagePoint Transactions did not take into account the fact that the VantagePoint Transactions, if approved, would virtually eliminate the Company's ability to use over $60 million worth of Intermix's valuable federal and state NOLs.

69. The foregoing information was material because Intermix shareholders were entitled to be informed that their approval of a transaction would cause the Company to lose a valuable asset. In fact, ***once shareholder approval of the revised VantagePoint transaction was obtained and the revised VantagePoint transaction was consummated, Intermix was able to use only $4 million of the $43.7 million federal NOLs it had on the books, and only $3.7 million of the $17 million state NOLs.***

70. Thus, the 2003 Proxy was used to induce shareholder approval of a transaction that caused the Company to forfeit tens of millions of dollars worth of its valuable tax credits.

71. Defendants were aware of their duty to disclose this material information in the 2003 Proxy, and failed to ensure that this material information was disclosed in the 2003 Proxy.

72. Had defendants disclosed the truth about (i) the effect of the revised VantagePoint transaction on the Company's ability to use its NOLs, and (ii) the Board's recommendation that shareholders vote in favor of the VantagePoint Transactions, as they were required to do, Intermix shareholders would not have voted to reelect the Board nor would they have or approved the revised VantagePoint transaction. Defendants' preparation of and dissemination of the false and materially misleading 2003 Proxy was an essential link in defendants' accomplishment of the reelection of the Board and the approval of the revised VantagePoint transaction.

73. Because of the material information omitted from the 2003 Proxy, uninformed shareholders approved proposals 1 and 2 in connection with the January 29, 2004 shareholder meeting. As a result, shareholders incurred millions of dollars in damages attributable to the lost NOLs and the 2003 Defendants' reelection to the Intermix Board.

The 2003 Defendants' Fraud, Deceit, Manipulation and Contrivance in Connection with Issuance of the 2003 Proxy

74. The 2003 Defendants engaged in the following fraudulent, deceitful, manipulative and contrived conduct in connection with the issuance of the false and misleading 2003 Proxy:

(a) In the summer of 2003, in the wake of allegations that the 2003 Individual Defendants had engaged in accounting improprieties and insider trading in violation of federal securities laws, the 2003 Individual Defendants became concerned that they might be removed from their positions at the Company by Greenspan, who at the time controlled nearly 25% of the Company's shares;

(b) In the fall of 2003, the 2003 Individual Defendants were presented with an opportunity to oust Greenspan from the Board and thus preserve their positions with the Company after Greenspan rejected the VantagePoint Transactions in favor of the common stock financing. Upon rejection by Greenspan, VantagePoint solicited the aid of certain of the 2003 Individual Defendants, specifically Moreau, Edell, Lipp and Brewer, to ensure that the common stock financing would be rejected in favor of the VantagePoint Transactions. In order for this to occur, VantagePoint, Moreau, Edell, Lipp and Brewer agreed that Greenspan would be removed from the Board, an event which, if it occurred, would benefit all of the 2003 Defendants;

(c) In exchange for the agreement of Moreau, Edell, Lipp and Brewer to aid in ousting Greenspan from the Board, VantagePoint agreed to retain the 2003 Individual Defendants if the VantagePoint financing was consummated;

(d) In order to set up Greenspan's ouster from the Board, VantagePoint, Moreau, Edell, Lipp and Brewer agreed that VantagePoint would send a letter to the Board threatening legal action and demanding immediate repayment of the $2.5 million VantagePoint had already loaned the Company if the Board did not complete the VantagePoint Transactions and reject the common stock financing;

(e) Pursuant to this fraudulent scheme, on or about October 27, 2003 VantagePoint sent a letter to the Board. The letter asserted that the Company had breached the agreement with VantagePoint, demanded immediate repayment of the $2.5 million debt from the first phase of the VantagePoint Transactions, and threatened to take legal action against the Company and those who were participating in the common stock financing investors. In the letter, VantagePoint falsely claimed that Greenspan had attempted to forestall completion of the VantagePoint Transactions by withholding due diligence materials. The truth, however, was that VantagePoint was solely responsible for the delay, as it had sought several extensions of its original deadline and then sought to revise the terms;

(f) The letter was considered in a meeting on October 27, 2003, with Moreau, Edell, Lipp and Brewer playing their part in the ruse by feigning surprise at receipt of the letter. Brewer and Lipp carried the ruse one step further by pretending indignation at the purported dilatory conduct alleged to have been engaged in by Greenspan, and they collectively threatened to immediately resign as officers and directors if Greenspan did not step down as CEO and Chairman;

(g) Faced with the fraudulent, deceitful, manipulative and contrived conduct of VantagePoint, Moreau, Edell, Lipp and Brewer, the Board approved the revised VantagePoint financing and rejected the common stock financing deal negotiated by Greenspan. Greenspan was forced to resign his positions as Chairman and CEO;

(h) In order to coerce shareholders into approving the VantagePoint Transactions, and secure their reelection to the Board, the 2003 Defendants purposely issued the false and misleading 2003 Proxy, in which defendants failed to disclose the fact that the VantagePoint Transactions would virtually eliminate the Company's ability to utilize over $60 million worth of federal and state NOLs.

BACKGROUND TO DEFENDANTS' ISSUANCE OF THE FALSE AND MISLEADING 2005 PROXY

Defendants Sell the Company to News Corp. Via an Unfair Process and at an Unfair Price

75. On or about December 3, 2004, the New York Attorney General, Eliot Spitzer ("Spitzer"), initiated an investigation of Intermix, related to charges that the Company had been deceptively installing hidden spyware software in its programs. The investigation revealed that beginning in 2003 and 2004, the Company had bundled spyware and adware programs with other free software programs without properly informing consumers of the hidden software.

76. Spitzer's investigation into Intermix's use of spyware and adware continued for four months. During this time period, the Company failed to disclose that the investigation was taking place. While the Company kept the New York Attorney General Elliot Spitzer investigation under wraps, Brewer and the Company's largest shareholder VantagePoint, who had in their possession confidential information regarding the existence and development of the investigation, sold material amounts of the Company's stock.

77. As the Spitzer investigation progressed, the 2005 Individual Defendants became concerned about their potential liability, not only in connection with the New York Attorney General's investigation, but also in the then-outstanding securities and derivative lawsuits based on defendants' misconduct that resulted in the Company's restatement.

78. On February 10, 2005, Greenspan filed a derivative suit against the Company's officers and directors, alleging harm to the Company caused by defendants' misconduct in connection with the events leading up to the issuance of the 2003 Proxy, as detailed in ¶¶43-58.

79. Aware that a sale of the Company could extinguish their liability in derivative suits, in February 2005, the 2005 Individual Defendants formed a "Transactions Committee" to find a suitor willing to purchase the Company and grant

them indemnification for their prior misdeeds. The 2005 Individual Defendants also viewed a sale of the Company as a chance to monetize their illiquid holdings in Intermix and capture for themselves profits associated with the Company's MySpace asset.

80. VantagePoint also was looking for a way to cash out its holdings in the Company. VantagePoint had tried to dump stock on the market over the past few months but realized that the only way VantagePoint could really monetize the bulk of its investment quickly would be through a sale of the entire Company.

81. Notably, the "Transactions Committee" formed by the 2005 Individual Defendants consisted entirely of directors whose interests were aligned with and dictated by VantagePoint: (i) Sheehan, a managing director of VantagePoint; (ii) Rosenblatt, who held millions in illiquid options and intended to use his position on the Transactions Committee to secure continuing employment with any buyer; and (iii) Quandt, who was hand-picked by and completely beholden to VantagePoint.

82. Over the next three months, defendants conducted preliminary negotiations with at least three potential acquirors.

83. At about this same time, MySpace experienced unprecedented growth. The website, which integrates web profiles, blogs, instant messaging, email, music downloads, photo galleries, classified listings, events, groups, chat rooms and user forums to create a connected community where users are able to organize and maintain significant aspects of their lives in a readily available virtual space, was growing exponentially.

84. On April 5, 2005, New York Attorney General Spitzer notified Intermix that he intended to file suit for the Company's surreptitious use of spyware/adware. On April 14, 2005, the Company disclosed the Spitzer investigation and forthcoming lawsuit in a Form 8-K.

85. On April 28, 2005, New York Attorney General Spitzer filed suit against Intermix for its use of spyware/adware. Between April 25, 2005 and May 9, 2005,

Intermix's common stock collapsed from $8.25 to $3.20 a share as news of the Spitzer investigation was made public. On the heels of this news, the three parties that had earlier expressed interest in purchasing the Company temporarily backed off.

86. Between April 25, 2005, and May 9, 2005, the Company's stock price plummeted from $8.25 per share to $3.20 per share as a result of the Spitzer investigation. This fall in the Company's stock price made Intermix ripe for takeover by an opportunistic acquirer to make a bid for the Company while its stock price did not reflect the Company's actual economic prospects.

87. On June 9, 2005, Montgomery informed the 2005 Individual Defendants that News Corp. was willing to purchase the Company and, as demanded by the 2005 Individual Defendants, to assume all defendants' personal liability. News Corp. also assured the 2005 Individual Defendants that their personal interests would be well taken care of in the deal and that they would be able to personally capitalize on the value of MySpace.

88. From this point forward, the 2005 Individual Defendants engaged in a sales process which was designed to ensure that the sale of Intermix was consummated with one buyer and one buyer only: News Corp. Defendants failed to conduct any canvas of the market, including failing to contact the potential bidders that had shown interest in purchasing Intermix prior to disclosure of the Spitzer investigation. Defendants did so even though the offer proposed by News Corp. did not adequately value MySpace. Defendants suppressed this information from shareholders.

89. On June 14, 2005, defendants announced that they had settled the Spitzer lawsuit, by causing Intermix to pay $7.5 million. By this point, defendants were already allowing News Corp. to direct their decision-making, as they actively worked with News Corp. in settling the Spitzer litigation.

90. On June 22, 2005, News Corp. signed a confidentiality agreement with the Company and commenced due diligence the next day.

91. Rosenblatt and Sheehan subsequently directed the "negotiations" with News Corp. The "negotiations," however, did not involve attempting to comply with these defendants' legal duties to act in the best interest of Intermix's public shareholders. Instead, the "negotiations" with News Corp. revolved around the 2005 Individual Defendants maneuvering to secure personal benefits for themselves as part of the sale of Intermix, which benefits were bargained for at the expense of Intermix's public shareholders. For example, in exchange for instant monetization for his Intermix option holdings and a job with the surviving entity, Rosenblatt agreed to participate in the deal. In an email sent to VantagePoint representative Sheehan on June 23, 2005, he made his motives patently clear:

> ***"Fox dili starting Monday. Name ur next kid rich. No deal unless I stay long term. remember your vesting promise."***

92. That same day, Rosenblatt confirmed that News Corp. was starting to undertake due diligence.

93. Throughout the summer of 2005, the 2005 Defendants steadfastly refused to negotiate in good faith with any bidder other than News Corp. For example, on July 1, 2005, Rosenblatt was approached by a second investment bank, Weisel, with an offer from Viacom, Inc. ("Viacom") to purchase Intermix. To avoid the potential of a "hostile" offer from Viacom that would yield higher value to Intermix shareholders – ***but would likely yield less of the personal benefits to Rosenblatt and the other 2005 Individual Defendants stood to receive in the News Corp. transaction*** – Rosenblatt decided to string Weisel and Viacom along, by promising Viacom that it would be allowed to conduct due diligence that never materialized. Viacom would later complain that it had been misled by Rosenblatt and the other 2005 Defendants.

94. The 2005 Individual Defendants quickly made the decision that they would actively ***avoid*** conducting a pre-merger market check to determine if the News Corp. deal was in the interests of shareholders. In a July 6, 2006, email sent to Montgomery, Rosenblatt closed the door on the possibility of an auction stating:

"Get lang [Mike Lang of News Corp.] to 12 and ill get vantage. Just spoke w him . . . he wants to test the market and I'm advising against it . . ."

95. That same day, Rosenblatt confirmed that he had obtained approval of the CEO of MySpace, Chris DeWolfe, to enter into a deal with Fox at $12 per share.

96. On July 12, 2005, Rosenblatt met with Rupert Murdoch and Peter Chernin of News Corp. News Corp. made an offer of $12 per share on the condition that the agreement be executed by July 17, 2005.

97. During this meeting, Rosenblatt communicated to News Corp. information regarding MySpace's breakneck growth. The following day, Rosenblatt sent an email to News Corp. executives, writing, "***I am looking forward to supporting the 20 [billion] dream***!"

98. Just prior to this meeting and in order to ensure that Weisel would not foul up the News Corp. deal by pressing defendants for good faith negotiations with Viacom, Rosenblatt "retained" Weisel to work for him and to ultimately write a fairness opinion concerning the Acquisition that would pay Weisel over $3 million, effectively "buying off" the investment banker with the promise of an incentive-based multi-million dollar fee.

99. Rosenblatt retained Weisel despite that fact that he had already retained Montgomery to issue a fairness opinion for which it was to earn a multimillion dollar fee. As Montgomery acknowledged in an email to Sheehan, the retention of Montgomery was part of Montgomery's agreement that ***it would "write a fairness opinion [as part of the] agreement [and] that this would be the 'love.'"***

100. Through this new relationship between Rosenblatt and Weisel, the 2005 Individual Defendants sought to effectively cut-off the flow of information that could lead to a Viacom bid and a bidding war. With Weisel in their camp, defendants were able to deliver Intermix to News Corp. by evading Viacom, who, as late as July 15, 2005, stood ready to submit a bid for the Company. As part of their plan to deliver

Intermix to News Corp., ***the 2005 Individual Defendants refused to provide adequate due diligence to Viacom.*** Instead, defendants rebuffed Viacom and accelerated "negotiations" with News Corp., working around the clock to ink an agreement with News Corp. by July 17, 2005.

101. That Viacom was focused on making a bid for Intermix is demonstrated by an email sent by a Viacom representative to Rosenblatt:

> We are coming with a bid early next week. We really want to be with you on this and hope to get in the ring for it (just saw Cinderalla Man). Tried to call you, but didn't get through. My cell is . . . . Weekend number: . . . . Some of the team is out there, we are all on top of this. . . . is with me on wanting to be in business with you.

102. Despite Viacom's obvious, demonstrated level of interest, defendants made no attempt to negotiate in good faith with Viacom before entering into the Acquisition. Indeed, defendants deliberately avoided any communications with Viacom in order to ensure that they could finalize the Acquisition without the intrusion of a third party which had not promised defendants the same benefits as News Corp.

103. As the negotiations with News Corp. proceeded to the final stages, Rosenblatt reminded Sheehan of Sheehan's agreement that if Rosenblatt helped deliver Intermix to News Corp., VantagePoint would "get him a good job." Sheehan confirmed that it would be "no problemo" to deliver a lucrative employment for Rosenblatt with News Corp.

104. On July 17, 2005, Sheehan continued to work with the 2005 Individual Defendants to ensure that the interests of VantagePoint and the 2005 Individual Defendants – as opposed to Intermix's public shareholders – would be well taken care of in the deal, demanding a liquidation preference for VantagePoint and indemnification for the Board. In an email sent to Sheehan by News Corp., News Corp. stated:

Good discussion this evening. We're making progress and are hopeful to get this wrapped-up soon. On the issues, let's close on the remaining ones in a fair and reasonable way – so we can build our relationship.

1) We are willing to pay the liquidation preference upon sale.

2) From the beginning, we've appreciated your commitment to selling your shares. This is the reason why Peter gave on the upside protection in the event of a Fox counter – to ask for profit if we lose is a stretch.

3) ***We feel like we have given indemnification on the shares and the purchase agreement itself – to do so on an issue we have no involvement in whatsoever (i.e. Greenspan) – that seems like too much.***

105. Rosenblatt had one final detail that he needed to iron out before the deal with News Corp. could be finalized. As part of the initial negotiations with News Corp., the Company had secured a $70 million line of credit that it could have used to repurchase the 47% interest in MySpace now held by RedPoint, an option it could exercise for $60 million. Because News Corp. had now made a bona fide offer to purchase the Company, the Board now had the cash and the opportunity to repurchase MySpace and then reject the News Corp. proposal. Defendants could have then spun-off MySpace or searched for a competing offer that adequately valued the Company's crown jewel. But the 2005 Individual Defendants had been given all they had asked for by News Corp. and Rosenblatt convinced his fellow defendants to forego the opportunity to recapture MySpace and maximize shareholder value for Intermix's public shareholders.

106. Immediately following the signing of the merger agreement, but before the shareholder vote, it became even more clear that the terms of the Acquisition were not fair to Intermix shareholders. Throughout July, August and September, MySpace revenue continued to soar, making the future projections that were used by the Investment Banks and the rest of the 2005 Defendants to assert that the terms of the

Acquisition were "fair from a financial point of view" to Intermix shareholders, even more baseless.

107. Importantly, as late as September 25, 2005, both the 2005 Individual Defendants and the Investment Banks were still actively involved in analyzing the value of the Company as a whole, and the value of MySpace specifically. In fact, according to a public filing on September 26, 2005, the 2005 Individual Defendants and the Investment Banks had thoroughly analyzed and rejected an offer by former CEO Greenspan to spin off MySpace, which analysis involved a review of the current and future MySpace revenue and its unprecedented growth.

108. Indeed, between the time the deal was announced on July 18, 2005 and the time shareholder approval of the sale was obtained on September 30, 2005, MySpace "Page Views" increased by approximately 45% and its "Unique Visitors" run rate by approximately 16%, according to Nielsen NetRatings (comparing the week ended August 21, 2005 to the week ended July 10, 2005). In fact, MySpace had become ***the second most popular site on the internet*** in page views, and accounted for ***12.4% of all online display ads shown in the United States***.

109. Defendants knew that the Acquisition consideration vastly undervalued MySpace. In a July 13, 2005, email to News Corp. executives Rosenblatt offered insiders his multibillion dollar view of the MySpace asset: "I am looking forward to supporting the 20 [billion] dream!" Rosenblatt's "dream" has proven itself a reality. In the months following the Acquisition, analysts have pegged MySpace's value as much as $20 billion. Indeed, News Corp. is currently considering a proposal to sell MySpace to Yahoo, Inc. ("Yahoo"), in exchange for a 25% interest in Yahoo, a deal that would value MySpace at about $12 billion.

110. Even though MySpace was the Company's most significant asset and growing significantly faster than the rest of the company's assets, the Company did not separately report the revenues and earnings of MySpace, instead consolidating them with the rest of the Company's results. By consolidating MySpace's revenues

and earnings with the rest of the Company's financials, the 2005 Defendants not only violated GAAP, shareholders were precluded from being informed that MySpace was experiencing unprecedented growth. MySpace was driving monumental gains in net income for the entire Company, with a 900% increase in net income for 1Q06 over 1Q05.[5]

111. A comparison of the terms of News Corp.'s $580 million acquisition of Intermix with another News Corp. acquisition, IGN Entertainment ("IGN") (an online video game company), for $650 million, highlights defendants' failure to act in the interest of Intermix shareholders. Both acquisitions occurred in the summer of 2005, and by any objective metric, Intermix was far more valuable:

- ***Intermix had almost twice the revenues of IGN.*** For the six months ended June 30, 2005, IGN had $28.7 million in revenue while Intermix had $50.82 million in revenue;
- ***Intermix was profitable – IGN was not.*** For the six months ended June 30, 2005, IGN lost $7.5 million while Intermix posted $529,000 in profits; and
- ***Intermix had substantially more internet traffic than IGN.*** Recent figures showed that IGN had 28 million Unique Visitors and 600 million page views per month, while Intermix had 20% more Unique Visitors and 500% more page views per month.

112. On July 19, 2005, the 2005 Individual Defendants announced that News Corp. was buying Intermix for $580 million. Intermix issued a release stating:

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[5] News Corp. later announced a multi-year search engine and advertising deal with search engine giant Google that provided News Corp. $900 million. News Corp. President Peter Chernin said of the deal: "We have gotten a 70 percent premium on our MySpace investment and are now playing with house money." News Corp. also announced plans to launch a MySpace website in China.

> Rupert Murdoch's News Corp. agreed to buy Intermix Media Inc., owner of more than 30 marketing and entertainment Web sites, for $580 million . . . . Intermix shareholders will receive $12 a share in cash.

Defendants Secure Material Personal Benefits Not Shared with Intermix's Public Shareholders in Connection with the Acquisition

113. As part of the deal with News Corp., the 2005 Individual Defendants secured more than $15 million via stock options, including more than $9.4 million for CEO Rosenblatt alone.

114. In addition, defendants altered certain of their own contracts to provide for even greater benefits, in the form of full vesting of options, than they otherwise would have been entitled to. For example, pursuant to a February 23, 2004, employment agreement between the Company and Rosenblatt, Rosenblatt was granted options to purchase, at an exercise price of $1.83 per share, an aggregate of 2,000,000 shares of Intermix common stock, of which 100,000 shares vested immediately, 1,200,000 shares were to vest on a monthly pro rata basis ***over four years*** and 700,000 shares were to vest upon the achievement of certain financial goals or, if not then vested, at the end of six years of continuous employment. Under Rosenblatt's employment agreement, upon a change of control of Intermix, Rosenblatt was to receive immediate vesting of only 50% of the unvested portion of the performance based option. Only in the event of a change of control and the simultaneous or subsequent termination of Rosenblatt's employment within six months following the change of control was Rosenblatt to receive immediate vesting of all unvested options. Yet, even though Rosenblatt continued with the Company post-Acquisition, Rosenblatt received acceleration and immediate vesting of all of his unvested stock options because, concurrently with the execution of the Merger Agreement, defendants agreed to accelerate the vesting of all the outstanding unvested stock options held by Rosenblatt to occur immediately prior to the effective time of the Acquisition.

115. Rosenblatt also secured the additional benefit of continuing employment with News Corp. post-Acquisition.

116. Moreover, VantagePoint and defendants Carlick and Sheehan secured preferential treatment for their preferred shares – as much as $14.60 a share, or 23% more than the Company's public shareholders. Notably, these defendants had to negotiate specifically with News Corp. regarding these preferences to ensure that News Corp. would accord their preferred shares with preferred, heightened economic consideration. In doing so, these defendants subverted the interests of Intermix's public shareholders to serve their own interests, by negotiating for less consideration for Intermix's common shares to ensure that their own shares were given preferred treatment. Notably, via the Acquisition, VantagePoint turned its $8 million investment into a $160 million profit.

117. All the defendants secured the material personal benefit of indemnification for their past misconduct while in control of the Company. Notably, the indemnification secured by defendants is not merely co-extensive with the indemnification that they were entitled to while in control of Intermix. Intermix could only indemnify defendants for breaches of their fiduciary duties that were not taken in bad faith or disloyal to the Company and its shareholders. As a third-party acquirer, however, News Corp. could offer indemnification to defendants that extended to all their misconduct committed against Intermix and its shareholders, including bad faith and disloyal breaches of their fiduciary duties. By agreeing to sell the Company to News Corp., defendants could and did secure far more expansive indemnification than could be offered by Intermix.

118. In order to ensure that the Acquisition closed and that their own interests were taken care of, the 2005 Individual Defendants rushed to consummate the Acquisition before disclosing Intermix's 1Q06 results. For example, the 2005 Individual Defendants negotiated the Acquisition at a time when they were aware: (i) that Intermix was on track to post 1Q06 net income ***900% greater than 1Q05***; and (ii)

that Intermix shareholders would not have approved the Acquisition if this were disclosed to the public. In doing so, the 2005 Individual Defendants failed to disclose material information concerning the Company's prospects and the sales process. The 2005 Individual Defendants were well aware that they could not deliver a $12 per share deal to News Corp. (and receive their personal payoffs, premium payments for their unvested stock options and indemnification) if Intermix's stock was trading substantially above $12 per share, as it would have but for announcement of the Acquisition.

119. Moreover, the 2005 Defendants failed to disclose material information regarding the value of MySpace, even though management was receiving monthly updates that detailed the sky-rocketing value of the MySpace asset, as they were aware that this was the only way they could ensure that the Acquisition would close.

Defendants Relied on Conflicted Financial Advisors

120. Defendants refused to retain truly independent financial advisors to opine on the fairness of the Acquisition to Intermix's common shareholders. Instead, the 2005 Individual Defendants incentivized Montgomery and Weisel, the investment advisors they hired, to opine that the Acquisition was fair regardless of whether it actually was by agreeing to pay the financial advisors a fee contingent on the successful completion of the Acquisition. Pursuant to the terms of their engagement, Montgomery and Weisel received $750,000 each for their fairness opinions and an additional 0.425% of the total Acquisition consideration, or approximately $2.5 million each. The contingent nature of the fees served as an incentive to the investment bankers to opine that the Acquisition was fair because, if they opined it was unfair, as it definitely was, shareholders would have voted it down and the financial advisors would not have received the bulk of their multi-million dollar contingency fees.

121. Such contingency fee arrangements for financial advisors in business combinations have come under increased media and market scrutiny recently. The

New York Times recently characterized such fairness opinions based on contingent fees as "conflict-ridden fig leaves." A recent *Wall Street Journal* article also noted the potential conflicts this type of arrangement raises and commented that "it is an open secret on Wall Street that fairness opinions can be anything but arm's-length analyses." Indeed, as one banker noted in a recent article, "Very, very occasionally, the board of directors actually wakes up and says, 'You know what? Of course our banker is going to say this deal is fair, because they have a huge contingency on the line.'"

122. It was not surprising then that both Montgomery and Weisel opined that the consideration was fair despite the fact that Weisel's Discounted Cash Flow ("DCF") analysis indicated an appropriate value for the Company should be as high as $19.51.

123. Furthermore, in opining that the Acquisition was fair, Montgomery and Weisel ignored the Company's strong recent performance before and after the announcement. For instance, defendants were aware at the time they announced the Acquisition that Intermix was on track to post 1Q06 net income approximately ***900% greater*** than 1Q05 and were aware that Intermix common shares would trade substantially above $12 per share if this was disclosed to the public. In addition, subsequent to the announcement of the Acquisition, Intermix, and in particular MySpace, exhibited dramatic growth. MySpace enjoyed phenomenal growth as its "Unique Visitors" run rate has increased by approximately 16% since the Acquisition was announced according to Nielson NetRatings (comparing the week ended August 21, 2005 to the week ended July 10, 2005). Nielson NetRatings also indicated that MySpace's "Page Views" had increased by approximately 45% in the same time period. By August, MySpace became the second most visited site on the Internet (ahead of Yahoo and Google) and accounted for 12.4% of all online display ads shown in the United States. The benefits of these recent developments now flow to News Corp. instead of Intermix because of the Acquisition.

Defendants Impermissibly Locked-Up the Acquisition with Preclusive Deal Protection Devices

124. To ensure that the Acquisition would be completed and to improperly ward off other bidders, the 2005 Individual Defendants improperly tilted the playing field in favor of News Corp. by agreeing to deal protection devices which precluded defendants from taking any steps to maximize shareholder value.

125. Specifically, §6.2(a) of the Merger Agreement precluded defendants from providing an interested third party any non-public information until after that third party had already made a superior unsolicited proposal to acquire Intermix. This "no-shop" and "no-talk" provision effectively prohibited defendants from complying with their fiduciary duty to maximize shareholder value by preventing them from ever discussing a sale of the Company or providing information about the Company to interested buyers such as Greenspan.

126. Section 8.5 of the Merger Agreement provided for a penalty clause provision in the amount of $25 million (the "Termination Fee"), which bore no relation to any costs/expenses absorbed with News Corp.'s bid. Rather it was designed to impede any other bids by erecting a $25 million price admission to any bidder who might otherwise wish to try to buy Intermix. Intermix, and hence any third party interested in acquiring the Company, would have to pay News Corp. the $25 million within two business days in the event the Intermix Board terminated the agreement with News Corp. and moved forward with a superior proposal.

127. Section 6.2(d), the "matching rights" provision of the Merger Agreement, provided News Corp. with three days to match any superior proposal submitted by a competing bidder. The matching rights provision enable incremental bidding by News Corp., and created a further obstacle to the maximization of shareholder value.

128. All of these provisions were designed to, and did, prohibit other serious bids from being made for the Company that, while more favorable to the Company's

public shareholders, would not provide the self-dealing benefits defendants extracted for themselves via the Acquisition.

Defendants Issue the False and Misleading 2005 Proxy

129. In order to secure approval of the unfair Acquisition, defendants issued the false and misleading 2005 Proxy, which contained numerous material omissions and misstatements as set forth below.

The Current Revenues and Profits Being Generated by MySpace

130. Defendants made a number of statements in the 2005 Proxy that were rendered misleading by their failure to disclose the current revenues and profits being generated by MySpace, including:

(a) The following statement in the section entitled "Factors Relating to the Specific Terms of the Merger Agreement with Fox Interactive Media," on page 31 of the 2005 Proxy, which purports to offer the conclusion that the Acquisition was fair:

> [T]he board of directors concluded that the merger consideration was ***likely the highest price reasonably attainable*** for Intermix' stockholders in a merger or other acquisition transaction[.]

(b) The following statement contained in the introductory text of the Montgomery fairness opinion, set forth on pages 34-35 of the 2005 Proxy, claiming that Montgomery's analysis as based on the most up-to-date financial information:

> In Montgomery's review and analysis, and in arriving at its opinion, ***Montgomery assumed and relied upon the accuracy and completeness of all of the financial and other information provided to it*** (including information furnished to it orally or otherwise discussed with Montgomery by our management) or publicly available and neither attempted to verify, nor assumed responsibility for verifying, any of such information. Montgomery ***relied upon the assurances of our management that our management was not aware of any facts that***

> ***would make such information inaccurate or misleading***. Montgomery also made the following assumptions . . . that with respect to the financial forecasts and projections (and the assumptions and bases therefor) for Intermix that Montgomery reviewed, such forecasts and projections were reasonably prepared in good faith on the basis of reasonable assumptions and ***reflect the best currently available estimates and judgments of our management as to the future financial condition and performance of Intermix***, and that such projections and forecasts will be realized in the amounts and in the time periods currently estimated[.]

(c) The following text set forth in the section of the Montgomery fairness opinion entitled "Comparable Company Analysis," at pages 35-36 of the 2005 Proxy, which purports to assess the fair value of the Company after exercising the MySpace option:

> Based on public and other available information about comparable companies, Montgomery utilized a sum of the parts analysis to ***calculate the implied equity value of Intermix***, assuming (i) no exercise and (ii) exercise of the MySpace, Inc. purchase option. Montgomery performed a comparable company analysis for each of our three primary businesses separately (Alena, Intermix Network and our ownership interest in MySpace, Inc.) because the three businesses have different economics and peer groups. Montgomery then aggregated the estimated values of the three primary businesses to come to a range of estimated values for Intermix. In such analysis, Montgomery estimated a range of values for each of the three primary businesses by multiplying the estimated earnings before interest, taxes, depreciation and amortization (or, EBITDA) for each business for 2005 and 2006 (excluding our corporate

overhead expenses) by a range of EBITDA multiples for 2005 and 2006 derived from companies with comparable businesses. . . .

Projected 2005 and 2006 information for Intermix was based on projections of our management . . .:

	Enterprise Value/EBITDA 2005E	Enterprise Value/EBITDA 2006E
Alena	8.5x-12.0x	7.0x-8.0x
Intermix Network	16.0x-20.0x	12.0x-14.0x
MySpace, Inc.	22.0x-28.0x	15.0x-19.0x
Corporate Overhead	17.5x	13.0x
Implied Intermix Common Stock Value Per Share (no exercise of MySpace, Inc. purchase option)	$1.77-$3.88	$7.62-$9.96
Implied Intermix Common Stock Value Per Share (exercise of MySpace, Inc. purchase option)	$2.66-$5.41	$10.72-$14.28

131. The omission from the 2005 Proxy of the current revenues and profits being generated by MySpace rendered the foregoing sections of the 2005 Proxy materially misleading because, absent disclosure of the updated revenue figures for MySpace in these sections, Intermix shareholders were misled into believing that the Board's recommendation, and the basis thereof, that the Acquisition was the best price attainable for shareholders, and Montgomery's assessment of the Implied Intermix Common Stock Value Per Share with exercise of the MySpace option, reflected the most current and up-to-date information about the revenues being generated by MySpace. They did not.

132. In order to render the foregoing not misleading, defendants should have expressly disclosed in the 2005 Proxy, at a minimum: (i) that the Board's

recommendation and conclusion "that the merger consideration was likely the highest price reasonably attainable for Intermix stockholders in a merger or other acquisition transaction" did ***not*** factor in the most currently available information about the revenues being generated by MySpace; (ii) that Montgomery's asset valuation of Intermix after exercise of the MySpace option did not factor in the most currently available information about the revenues being generated by MySpace; and (iii) the current revenues and profits being generated by MySpace, which Company management was receiving on a monthly basis no later than February 2005, which demonstrated much higher revenues than were used and disclosed.

133. The foregoing information was material because between the time the Acquisition was announced on July 18, 2005, and the time shareholder approval of the sale was obtained on September 30, 2005, MySpace revenues were dramatically increasing because MySpace "page views" escalated by approximately 45% and its "Unique Visitors" run rate increased by approximately 16%, according to Nielsen NetRatings. In addition, by September 30, 2005, MySpace had become the most popular site on the internet in page views, and accounted for 12.4% of all online display ads shown in the United States. These escalating results led to known increases in revenues that were not used and/or disclosed as a basis for claims that the Acquisition was fairly priced.

The Updated Projections for Intermix that Included the Recent Growth of MySpace and the Company's Other Assets

134. Defendants made a number of statements in the 2005 Proxy that were rendered misleading by their failure to disclose updated projections for Intermix that included the recent growth of MySpace and the Company's other assets, including:

(a) The following statement contained in the introductory text of the Montgomery fairness opinion, set forth on pages 34-35 of the 2005 Proxy, claiming that Montgomery's analysis is based on the most up-to-date financial information:

In Montgomery's review and analysis, and in arriving at its opinion, ***Montgomery assumed and relied upon the accuracy and completeness of all of the financial and other information provided to it*** (including information furnished to it orally or otherwise discussed with Montgomery by our management) or publicly available and neither attempted to verify, nor assumed responsibility for verifying, any of such information. ***Montgomery relied upon the assurances of our management that our management was not aware of any facts that would make such information inaccurate or misleading***. Montgomery also made the following assumptions . . . that with respect to the financial forecasts and projections (and the assumptions and bases therefor) for Intermix that Montgomery reviewed, such forecasts and projections were reasonably prepared in good faith on the basis of reasonable assumptions and ***reflect the best currently available estimates and judgments of our management as to the future financial condition and performance of Intermix***, and that such projections and forecasts will be realized in the amounts and in the time periods currently estimated[.]

(b) The following text set forth in connection with Montgomery's Comparable Company Analysis, on page 36 of the 2005 Proxy:

Projected 2005 and 2006 information for Intermix was based on projections of our management. . . .

(c) The following text set forth in connection with Montgomery's DCF Analysis, on page 39 of the 2005 Proxy:

Montgomery used cash flow forecasts of Intermix for calendar years 2005 through 2009, as projected by our management, to perform a discounted cash flow analysis. . . .

(d) The following text set forth in connection with Montgomery's Selected Transactions Analysis, on pages 36-37 of the 2005 Proxy:

> Based on public and other available information about comparable companies, Montgomery utilized a sum of the parts analysis to calculate the implied equity value of Intermix, assuming (i) no exercise and (ii) exercise of the MySpace, Inc. purchase option. Montgomery performed a selected transactions analysis separately for each of our three primary businesses and then aggregated the results together. In such analysis, Montgomery estimated a range of values for each of the three primary businesses by multiplying the revenue or EBITDA for each business for selected periods by a range of revenue or EBITDA multiples for comparable companies based upon precedent transactions for those companies. The implied enterprise value of Intermix Network and our ownership interest in MySpace, Inc. was calculated as a multiple of EBITDA for those businesses for the last twelve months (LTM) and the next twelve months (NTM), and the implied enterprise value of Alena was calculated as a multiple of revenue for that business for the LTM and NTM, each based on selected acquisitions of companies in the online advertising, online content and networking, online direct marketing and offline direct marketing industries that have been announced since January 2, 2002. Montgomery used a revenue multiple for Alena because no meaningful EBITDA data was available with respect to precedent transactions for that line of business. After calculating the aggregate implied enterprise value of all of our businesses, Montgomery arrived at a sum of the parts range of values for our common stock by subtracting (i) the aggregate preferred stock liquidation preference that would be payable to holders of our preferred stock in the merger and (ii) an implied reduction in value associated with

our projected corporate overhead expenses (which had been excluded from the valuation of each separate business), and by adding back our net cash on hand at June 30, 2005.

(e) The outcomes of Montgomery's Comparable Companies, Selected Transactions and DCF Analyses, as set forth on pages 35-39 of the 2005 Proxy, which purport to assess the fair value of the Company.

(f) The following statement contained in the introductory text to Weisel's fairness opinion, set forth on pages 41-42 of the 2005 Proxy, claiming that Weisel's analysis is based on the most up-to-date financial information:

> In preparing its opinion, Thomas Weisel Partners . . . . also made the following assumptions: with respect to our financial forecasts provided to Thomas Weisel Partners by our management, upon the advice of such management and with our consent, Thomas Weisel Partners assumed for purposes of its opinion that the ***forecasts had been reasonably prepared on bases reflecting the best available estimates and judgments of our management at the time of preparation*** as to the future financial performance of Intermix, and that such forecasts provided a reasonable basis upon which Thomas Weisel Partners could form its opinion . . . .
>
> that there have been no material changes in the assets, financial condition, results of operations, business or prospects of Intermix since the respective dates of our last financial statements made available to Thomas Weisel Partners.

(g) The following text set forth in connection with Weisel's DCF analysis, on page 42 of the 2005 Proxy:

> Thomas Weisel Partners used cash flow forecasts of Intermix for calendar years 2005 through 2009, as projected by our management, to perform a discounted cash flow analysis. In conducting this analysis,

Thomas Weisel Partners assumed that we would perform in accordance with these forecasts.

(h) The following text set forth in connection with Weisel's Selected Public Companies Analysis, on page 43 of the 2005 Proxy:

Projected 2005 and 2006 information for Intermix was based on projections of our management.

(i) The outcomes of Weisel's Selected Public Company and DCF analyses, as set forth on pages 42-43 of the 2005 Proxy.

135. The omission from the 2005 Proxy of the updated projections for Intermix that included the recent growth of MySpace and the Company's other assets rendered the foregoing sections of the 2005 Proxy materially misleading because, absent disclosure of the updated projections for Intermix in these sections, shareholders were mislead into believing that Montgomery's and Weisel's various analyses actually reflected the most up-to-date financial information for Intermix, and management's best estimates for the future of Intermix based on the recent growth of MySpace and the Company's other assets. Company management, including Rosenblatt, was aware that the future growth of the Company was not accurately reflected in the projections used as demonstrated by his stated belief that the Company would be worth $20 billion in the future.

136. In order to render the foregoing not misleading, defendants should have expressly disclosed in the 2005 Proxy, at a minimum: (i) that the financial valuation performed by Montgomery and Weisel relied on management projections that were not the most recent or up-to-date management projections, and did not factor in the recent growth of MySpace and the Company's other assets; and (ii) the most recent Company projections that factored in the recent growth of MySpace and the Company's other assets.

137. The foregoing information was material because between the time the Acquisition was announced on July 18, 2005, and the time shareholder approval of the

sale was obtained on September 30, 2005, MySpace revenues were dramatically increasing because MySpace "page views" escalated by approximately 45% and its "Unique Visitors" run rate increased by approximately 16%, according to Nielsen NetRatings. In addition, by September 30, 2005, MySpace had become the most popular site on the internet in page views, and accounted for 12.4% of all online display ads shown in the United States. These results reflected growth that was likely to continue for a substantial period and growth that was not reflected in the projections used by defendants to assert that the Acquisition was fairly priced.

The Management Projections from 2005 to 2009

138. Certain of the financial analyses conducted by Montgomery and Weisel that relied on management projections from 2005 to 2009, set forth in the 2005 Proxy, were rendered misleading by defendants' failure to disclose these projections, including:

(a) Montgomery's Comparable Company analysis, including the results of this analysis as set forth on pages 35-36 of the 2005 Proxy, *see supra* ¶130(c).

(b) Montgomery's DCF Analysis, including the results of this analysis as set forth on page 39 of the 2005 Proxy:

> Montgomery used cash flow forecasts of Intermix for calendar years 2005 through 2009, as projected by our management, to perform a discounted cash flow analysis. In conducting this analysis, Montgomery assumed that Intermix would perform in accordance with these forecasts. Montgomery estimated the discounted value of the projected cash flows using discount rates ranging from 19% to 25%, which range of discount rates were selected based upon a weighted average cost of capital analysis for Intermix and the other companies used in the comparable company analysis. Montgomery then estimated the terminal value by applying exit multiples to our estimated 2009 EBITDA, which multiples

ranged from 8.0x to 12.0x. Montgomery then discounted the terminal value to present values using discount rates ranging from 19.0% to 25.0%. This analysis implied a common stock per share value ranging from $5.70 to $10.40 per share based on a 53% ownership interest in MySpace, Inc., and an implied per share value ranging from $7.10 to $12.70 per share based on a 100% ownership interest in MySpace, Inc.

(c) Weisel's DCF analysis, including the results of this analysis set forth on page 42 of the 2005 Proxy:

Thomas Weisel Partners used cash flow forecasts of Intermix for calendar years 2005 through 2009, as projected by our management, to perform a discounted cash flow analysis. In conducting this analysis, Thomas Weisel Partners assumed that we would perform in accordance with these forecasts. Thomas Weisel Partners first estimated the discounted value of the projected cash flows using discount rates ranging from 17% to 23%, which range of discount rates were selected based upon a weighted average cost of capital analysis for Intermix and the other companies used in the selected public companies analysis. Thomas Weisel Partners then estimated the terminal value by applying exit multiples to Intermix's estimated 2010 EBITDA, calculated by annualizing Intermix's fourth quarter 2009 EBITDA, which multiples ranged from 8.0x to 12.0x. Thomas Weisel Partners then discounted the terminal value to present values using discount rates ranging from 17.0% to 23.0%. This analysis indicated a range of enterprise values, to which total cash, cash equivalents and marketable securities were added, and total debt, preferred stock liquidation preference and the cost to Intermix to complete the MySpace, Inc. purchase option were subtracted to calculate a range of equity values. This analysis implied per share values ranging from $10.50 to $19.51.

139. The omission from the 2005 Proxy of the management projections for 2005 to 2009, rendered the foregoing sections of the 2005 Proxy materially misleading because, absent disclosure of the projections themselves, Intermix shareholders were unable to adequately gauge the accuracy or competency of these analyses or determine if these analyses were an accurate determination of the Company's value as a going concern, and/or determine for themselves whether the analyses actually supported the fairness of the consideration.

(a) Specifically as to Montgomery's Comparable Company analysis, the explanation of the analysis as set forth in the 2005 Proxy states that the analysis is based in part on an estimation of 2005 and 2006 EBITDA for each of Intermix's lines of business, including MySpace, but the 2005 Proxy does not disclose the EBITDA numbers relied on. The 2005 Proxy states that the analyses are performed by applying a range of multiples derived from comparable companies to Intermix's 2005 and 2006 EBITDA, but the 2005 Proxy does not disclose the actual multiples derived. Without the underlying data from the Company's projections, these analyses were materially misleading because they did not provide shareholders with sufficient disclosure of the data and inputs relied on in the analyses to determine if the analyses represented an accurate estimation of the Company's value as a going concern.

(b) Specifically as to Montgomery's and Weisel's DCF analyses, the explanations of the respective DCF analyses disclose only the range of discount rates and terminal multiples applied to the Company free cash flows and EBITDA estimates. Without the underlying projections, however, shareholders who disagreed with Montgomery's and Weisel's choice of discount ranges and terminal multiples could not recreate their own DCF analyses to determine if the consideration offered in the Acquisition adequately valued the Company as a stand alone, thus rendering the DCF analyses materially misleading.

140. In order to render the foregoing not misleading, defendants should have expressly disclosed the management projections from 2005 to 2009 that these analyses were based on.

141. The foregoing information was material because the projections represented management's best estimate of the Company's future cash flows, and thus was information of primary importance to Intermix shareholders' decision whether to vote in favor of the Acquisition or seek appraisal.

Defendants' Outstanding Liability in Derivative Lawsuits

142. Defendants made a number of statements in the 2005 Proxy that were rendered misleading by their failure to disclose their outstanding liability in derivative lawsuits, including:

(a) The statements in the sections entitled "Interests of Our Directors and Executive Officers in the Merger," as set forth on pages 11 and 48 of the 2005 Proxy.

(b) The statements in the section entitled "Litigation Related to the Merger," as set forth on pages 13 and 52 of the 2005 Proxy.

(c) The statements in the section "Reasons for the Merger," as set forth on pages 30-32 of the 2005 Proxy.

143. The omission from the 2005 Proxy of statements regarding defendants' outstanding liability in derivative lawsuits rendered the foregoing sections of the 2005 Proxy misleading because, absent, disclosure of this information, Intermix shareholders were not informed about the full extent of defendants' interest in the Acquisition, their motives for undertaking the Acquisition, and the value of the Company's assets being transferred to News Corp.

144. In order to render the foregoing not misleading, defendants should have expressly disclosed in the 2005 Proxy, at a minimum, (i) that defendants were subject to liability in outstanding derivative lawsuits; (ii) the substance of the allegations in these lawsuits; (iii) that the Acquisition, if consummated, would extinguish this

outstanding liability; (iv) that the Acquisition was undertaken, in part, to distinguish defendants' derivative liability; and (v) that the outstanding derivative lawsuits were an asset of the Company that would pass to News Corp. upon consummation of the Acquisition.

145. The foregoing was material because Intermix shareholders were entitled to know the full extent of the interests of Intermix's officers and directors in the Acquisition, defendants' reasons for undertaking the Acquisition, and the extent of the Company's assets being transferred to News Corp. via the Acquisition.

Viacom's Continued Interest in Acquiring Intermix

146. Defendants made a number of material misstatements in the 2005 Proxy about Viacom's continued interest in acquiring Intermix, including;

(a) The following statements regarding Viacom's alleged failure to make a formal or informal proposal for Intermix, at 27 and 29 of the 2005 Proxy:

> Our senior executive team and numerous representatives of Company D conducted numerous financial and operational due diligence meetings between July 14 and July 15 at the offices of Latham & Watkins. During and following these meetings representatives of Company D expressed continuing interest in pursuing a transaction with us but Company D did not, at that time or thereafter, submit to us or our representatives a formal or informal proposal regarding such a transaction or indicate any valuation at which Company D might be interested in completing a transaction.
>
> * * *
>
> Representatives of Thomas Weisel Partners informed the board of directors that, pursuant to the board's direction, they had contacted Company D's financial advisor to determine whether Company D would be in a position to offer an acquisition proposal with respect to us. Those representatives advised the board that Company D remained interested

and had indicated that it would move forward in an expeditious manner, however Company D was not then in a position to make a proposal but had scheduled a board meeting later that week to consider whether a proposal could be made.

147. This statement was materially misleading because defendants failed to disclose that: (i) in the days leading up to defendants' agreement to the Acquisition, Viacom executives made several attempts to contact Rosenblatt to make the offer that defendants state in the 2005 Proxy was never received, and Rosenblatt purposely dodged calls and/or contacts from Viacom; and (ii) Viacom was extremely unsatisfied with the amount and quality of the due diligence it was provided with by defendants and defendants withheld critical due diligence necessary to allow Viacom to make the offer that defendants' continually pointed out was not received and even considered filing a lawsuit against the Company in an attempt to secure a level playing field in the so-called sales process.

148. The foregoing information was material because, without this additional material information, the 2005 Proxy left shareholders with the false impression that Viacom was given a full and fair opportunity to bid for the Company. Had shareholders known the truth, they may have voted against the Acquisition in preference of a fair sales process for the Company.

The Ability of News Corp. and/or Viacom to "Block" a Competing Proposal by Making an Offer for MySpace

149. Defendants made a number of material misrepresentations in the 2005 Proxy about the ability of News Corp. and/or Viacom to block a competing proposal by making an offer for MySpace, including:

(a) The following description of the MySpace option set forth in the "Background of the Merger" section of the 2005 Proxy at page 24 regarding the potential that a bona fide offer for MySpace would "suspend" the MySpace option:

In February of 2005, we restructured our MySpace business by contributing our 67% interest in the MySpace.com website and related assets into a newly formed subsidiary, MySpace, Inc. Following the restructuring and a capital investment by third parties, we owned approximately 53% of MySpace, Inc. Pursuant to the stockholders agreement governing MySpace, Inc. and its operations, we also received an option to acquire all of the minority equity interests in MySpace, Inc. for an aggregate exercise price of approximately $69 million. The MySpace, Inc. purchase option had an expiration date of February 11, 2006 and we could only exercise the option if a third party made us a bona fide offer with respect to a change of control of our company prior to that date. ***The MySpace, Inc. stockholders agreement also provided that the exercisability of the MySpace, Inc. purchase option would be suspended if MySpace, Inc. itself received a bona fide acquisition proposal at a stated minimum price, for so long as discussions with respect to that proposal were continuing.***

(b) The following discussion of the Board's purported concerns that either News Corp. or Viacom could block a competing proposal by making an offer for MySpace and thereby potentially suspending the MySpace option, set forth in the "Background of the Merger" section of the 2005 Proxy, at page 28:

Our board of directors met four times, and the transaction committee met twice, during the July 16-17, 2005 period. At these meetings, our negotiating teams briefed our board members regarding the issues arising in the discussions, and received advice from its financial and legal advisors with respect to the negotiations. Our board of directors evaluated the advisability of soliciting an alternative acquisition proposal from Company D, weighing the possibility of securing a more attractive offer from Company D against the risk of

jeopardizing the News Corporation negotiations, particularly in light of the lack of an offer from Company D at that time. ***Our board of directors also considered the possibility that if either News Corporation or Company D viewed itself as unlikely to prevail in acquiring us, it might submit an offer to acquire only MySpace, Inc. in order to potentially suspend (at least temporarily) our ability to exercise the MySpace, Inc. purchase option, which could prospectively jeopardize other economically attractive transactions involving us.*** Our board accordingly authorized our financial and other representatives to remain in negotiations with News Corporation, while at the same time continuing due diligence and other discussions with representatives of Company D. Our board also directed representatives of Thomas Weisel Partners to contact Company D to determine whether Company D was prepared to make a formal offer to acquire us.

150. These statements were materially misleading because the statements misrepresent the practical effect of the provisions of the Stockholders Agreement regarding the MySpace option. Indeed, the truth was that, as a practical matter, if either News Corp. or Viacom did make an offer for MySpace, defendants would have been able to direct that the MySpace board discontinue any discussion of such a proposal, and thus ensure that the MySpace option would not be suspended as defendants stated in the 2005 Proxy. This is true because Rosenblatt and Sheehan exercised control over the MySpace board by virtue of holding two of MySpace's existing four board seats, and controlling the contractual right to appoint a fifth director. By exercising this control, the 2005 Defendants could ensure that an offer for MySpace, if made, could never be consummated. Indeed, both News Corp. and Viacom were aware of this fact, which is the reason neither bidder made an offer directly for MySpace and instead made offers for the entire Company, as an acquisition of Intermix was the only possible method for acquiring MySpace.

151. The foregoing information was material because, without this additional information, Intermix shareholders were left with the mistaken impression that the Board was justified in failing to pursue the Viacom proposal because Viacom could have blocked News Corp's bid for the Company by making an offer for MySpace, thus preventing shareholders from receiving an offer for their Intermix shares.

152. Defendants were aware of their duty to disclose and/or not materially misrepresent this material information in the 2005 Proxy, and acted with at least negligence in failing to ensure that this material information was disclosed and/or not materially misrepresented in the 2005 Proxy.

153. The 2005 Defendants' failure to disclose this information in the 2005 Proxy enabled defendants to consummate the Acquisition and procure personal benefits worth hundreds of millions of dollars, including: (i) the expectation that the Acquisition would extinguish their personal liability in existing shareholder derivative suits seeking millions of dollars; (ii) indemnification for defendants' prior violations of law as well as those arising out of the sale of Intermix to NewsCorp.; (iii) monetization of their illiquid Intermix stock holdings; (iv) guaranteed continuing employment with News Corp.; and/or (v) preferential financial treatment for their own shares *vis-à-vis* plaintiff and Intermix's other public shareholders.

154. Plaintiff and the class of the Company's shareholders would not have voted to approve the sale of the Company to News Corp. had this material information regarding the Company's economic prospects, the true value the Company's crown jewel asset, MySpace, and the unfairness of the price and process of the proposed merger, been disclosed, which information was material information that a reasonable shareholder would consider important in deciding how to vote on whether to approve the sale of the Company to News Corp. Had defendants disclosed this material information in the 2005 Proxy, as they were required to do, Intermix's shareholders would not have voted to approve the sale of the Company. Defendants' dissemination to the Company's shareholders of the false and materially misleading 2005 Proxy was

an essential link in defendants' accomplishment of the sale of the Company to News Corp.

The Investment Banks' False and Misleading Fairness Opinions

155. Attached to the 2005 Proxy as Annex B was Montgomery's "fairness opinion" which stated that the merger consideration "is fair to the holders of Company Common Stock . . . from a financial point of view" based upon Montgomery's consideration of various factors, including the fact that Montgomery had:

- "reviewed certain internal financial statements and other financial and operating data, including certain financial forecasts and other forward looking information concerning the Company, prepared by the management of the Company";
- "held discussions with the management of the Company concerning the . . . future prospects of the Company";
- "compared the financial terms of the Merger applicable to holders of Company Common Stock with stock price multiples of certain other publicly traded companies with businesses comparable to the Company's businesses";
- "compared the financial terms of the Merger applicable to holders of Company Common Stock and with the financial terms, to the extent publicly available, of other transactions that we deemed relevant"; [and]
- "prepared a discounted cash flow analysis of the Company[.]"

156. Attached to the 2005 Proxy as Annex C was Weisel's "fairness opinion" which also concluded that the merger consideration was "fair to [Intermix] stockholders from a financial point of view" based upon Weisel's consideration of various factors, including the fact that Weisel had:

- "reviewed certain publicly available financial and other data with respect to [Intermix], including the consolidated financial statements for recent years and certain other relevant financial and operating data relating to

[Intermix] made available to us from published sources and from the internal records of [Intermix]";

- "reviewed the financial terms and conditions of the Merger Agreement";
- "reviewed certain publicly available information concerning the trading of, and the trading market for, [Intermix] Common Stock";
- "compared [Intermix] from a financial point of view with certain other companies in the internet industry which we deemed to be relevant";
- "considered the financial terms, to the extent publicly available, of selected recent business combinations of companies in the internet industry which we deemed to be comparable, in whole or in part, to the [Acquisition]";
- "reviewed and discussed with representatives of the management of [Intermix] certain information of a business and financial nature regarding [Intermix], furnished to us by [Intermix], including financial forecasts and related assumptions of [Intermix]";
- "made inquiries regarding and discussed the [Acquisition] and the Merger Agreement and other matters related thereto with [Intermix's] counsel"; and
- "performed such other analyses and examinations as they deemed appropriate."

157. The 2005 Proxy incorporated the fairness opinion prepared by Montgomery as well as a summary thereof. Montgomery was aware that its opinion – that the merger consideration to be received by the common stockholders of Intermix was "fair" from a financial standpoint – would be incorporated into the 2005 Proxy.

158. The 2005 Proxy also incorporated the fairness opinion prepared by Weisel as well as a summary thereof. Weisel was aware that its opinion – that merger consideration to be received by the common stockholders of Intermix was "fair" from a financial standpoint – would be incorporated into the 2005 Proxy.

159. At the time Montgomery and Weisel knowingly consented to the inclusion of the fairness opinions in the 2005 Proxy for the purpose of convincing shareholders to approve the merger, the Investment Banks were aware that the merger price was not a fair price based on the non-public MySpace financial information and projections and other information they had in their possession at the time of the issuance of their opinion. The Investment Banks were given updated financial information in July, August and September 2005 that further demonstrated that the price offered to Intermix shareholders was not fair from a financial point of view.

160. The Investment Banks agreed to support the merger in order to receive the financial windfall due to them under the incentive-based pay structure they had agreed to with the 2005 Defendants.

The 2005 Defendants Consummate the Acquisition

161. On September 23, 2005, Greenspan publicly announced an offer for 50% of the shares at $13.50 per share. This proposal, if consummated, would have provided shareholders $1.50 more per share than the Acquisition with News Corp. while permitting shareholders to retain an interest in the Company. Intermix's stock price rose significantly in response to the announcement of Greenspan's offer, to $12.30 per share, an increase of $0.39. However, the 2005 Individual Defendants did not give good faith consideration to the Greenspan offer. Rather, the 2005 Individual Defendants dismissed it out of hand. On September 26, 2005, the 2005 Individual Defendants rejected the offer and reiterated their support for the News Corp. offer. When Intermix filed its Form 8-K on the morning of September 26, 2005 rejecting Greenspan's offer, the stock price dropped back to its lower level.

162. Because the 2005 Proxy omitted material information, Intermix shareholders were precluded from casting an informed vote in favor of the Acquisition. Accordingly, on September 30, 2005, Intermix shareholders voted in favor of the Acquisition, which closed the same day.

COUNT I

Against Defendants Brewer, Mosher, Moreau, Edell, Ward, Carlick, Sheehan, Lipp and VantagePoint for Violations of §14(a) of the 1934 Act and SEC Rule 14a-9 Promulgated Thereunder

163. Plaintiff repeats and realleges the allegations contained above in ¶¶1-74, as if fully set forth herein.

164. During the Relevant Period, the 2003 Defendants named in this claim disseminated the false and misleading 2003 Proxy specified above which failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

165. The 2003 Proxy was prepared, reviewed and/or disseminated by the defendants named in this claim. It misrepresented and/or omitted material facts, including the impact that the revised VantagePoint financing would have on the Company's ability to use tens of millions of dollars in NOLs. In so doing, they made untrue statements of material facts and omitted to state material facts necessary to make the statements that were made not misleading in violation of §14(a) of the 1934 Act and SEC Rule 14a-9 promulgated thereunder. By virtue of their positions with the Company, defendants were aware of this information and of their duty to disclose this information in the 2003 Proxy.

166. In preparing, reviewing and disseminating the 2003 Proxy, defendants engaged in fraud, deceit, manipulation and/or contrivance.

167. As a result of the 2003 Defendants' misconduct, Intermix's shareholders have suffered damages because the 2003 Defendants were able to secure their own reelection and obtain approval of VantagePoint transaction, which was made on terms extremely disadvantageous to Intermix's public shareholder. Absent the false and misleading statements in the relevant proxy statements, the majority of the shareholders who were unaware of untruths and relied thereon would not have voted as they did. As such, Intermix's public shareholders' damages were directly and proximately caused by the 2003 Defendants' wrongful conduct. By reason of such

misconduct, the 2003 Defendants are liable pursuant to §14(a) of the 1934 Act and SEC Rule 14a-9 promulgated thereunder.

COUNT II

Against Defendants Brewer, Mosher, Moreau, Carlick, Sheehan, Lipp, Rosenblatt, Quandt, Woodward, VantagePoint, Weisel and Montgomery for Violations of §14(a) of the 1934 Act and SEC Rule 14a-9 Promulgated Thereunder

168. Plaintiff repeats and realleges the allegations contained above in ¶¶1-42, 75-162, as if fully set forth herein. For the purposes of this Count II, plaintiffs specifically disclaim any allegations that the 2005 Defendants acted fraudulently.

169. During the Relevant Period, the 2005 Individual Defendants named in this claim, along with defendants VantagePoint, Weisel and Montgomery, disseminated the false and misleading 2005 Proxy which failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

170. The 2005 Proxy was prepared and disseminated by the 2005 Individual Defendants, VantagePoint, Montgomery and Weisel. It misrepresented and/or omitted material information about the true value of the Company and the unfairness of the sales process.

171. In so doing, the 2005 Defendants made untrue statements of material facts and omitted to state material facts necessary to make the statements that were made not misleading in violation of §14(a) of the 1934 Act and SEC Rule 14a-9 promulgated thereunder. By virtue of their positions within the Company, defendants were aware of this information and of their duty to disclose this information in the 2005 Proxy.

172. In addition, the fairness opinions issued by Weisel and Montgomery, and incorporated in the 2005 Proxy, were false and misleading because they opined that the consideration to be received by the common shareholders in their merger was fair from a financial point of view. The merger consideration was not, in fact, fair.

Moreover, Weisel and Montgomery knew that the merger price was not a fair price based on the non-public MySpace financial information and projections and other information they received. Therefore, Weisel and Montgomery made untrue statements of material facts and omitted to state material facts necessary to make the statements that were made not misleading in violation of §14(a) of the 1934 Act and SEC Rule 14a-9 promulgated thereunder.

173. The 2005 Individual Defendants, VantagePoint, Weisel and Montgomery also failed to correct the 2005 Proxy as it became even more clear that MySpace was generating revenues far in excess of what was being projected at the time the merger agreement was signed. This failure to update and correct as knowingly false statements is also a violation of §14(a) of the 1934 Act and SEC Rule 14a-9 promulgated thereunder. By virtue of their positions within the Company, the 2005 Defendants were aware of this information and of their duty to disclose this information in the 2005 Proxy.

174. As a result of VantagePoint's, Weisel's, Montgomery's and the 2005 Individual Defendants' misconduct, Intermix's shareholders have suffered damages because VantagePoint, Weisel, Montgomery and the 2005 Individual Defendants were able to secure personal material benefits as a result of the approval of the Acquisition, including the extinguishment of liability in derivative suits, indemnification for prior and contemporaneous misconduct, the monetization of illiquid holdings in the Company, continuing employment with News Corp., and/or preferential financial treatment for their shares as compared to Intermix's public shareholders, and direct payments. Absent the false and misleading statements in the relevant proxy statements, the majority of the shareholders who were unaware of untruths and relied thereon would not have voted as they did. As such, Intermix's public shareholders' damages were directly and proximately caused by Weisel's, Montgomery's and the 2005 Individual Defendants' wrongful conduct because they have been deprived of the ability to share in the billions of dollars in profits generated by MySpace after the

Acquisition was consummated. By reason of such misconduct, VantagePoint, Weisel, Montgomery and the 2005 Individual Defendants are liable pursuant to §14(a) of the 1934 Act and SEC Rule 14a-9 promulgated thereunder.

COUNT III

For Violation of §20(a) of the 1934 Act Against the 2003 Defendants, the 2005 Individual Defendants and VantagePoint

175. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

176. The 2003 Defendants and the 2005 Individual Defendants acted as controlling persons of Intermix within the meaning of §20(a) of the 1934 Act. By reason of their positions as officers and/or directors of Intermix, and their ownership of Intermix stock, these defendants had the power and authority to cause Intermix to engage in the wrongful conduct complained of herein. Intermix controlled each of the defendants and all of its employees. By reason of such conduct, the 2003 Defendants and the 2005 Individual Defendants are liable pursuant to §20(a) of the 1934 Act.

177. Defendant VantagePoint acted as a controlling person of Intermix within the meaning of §20(a) of the 1934 Act. Defendant VantagePoint owned more than 22% of Intermix's voting shares, was the Company's largest shareholder and possessed and exercised significant control and dominion over Intermix by virtue of contractual provisions agreed to as part of VantagePoint's investments in Intermix. Moreover, all strategic decisions for Intermix were made by or required the approval of VantagePoint and its two representatives on the Intermix Board, defendants Carlick and Sheehan.

178. By reason of such wrongful conduct, the 2003 Defendants, the 2005 Individual Defendants and VantagePoint are liable pursuant to §20(a) of the Exchange Act. As a direct and proximate result of these defendants' wrongful conduct, plaintiffs and the other members of the Class suffered damages in connection with their purchase of Intermix stock during the Class Period.

COUNT IV

For Breach of Fiduciary Duty Against the 2005 Individual Defendants

179. Plaintiff repeats and realleges each allegation as though fully set forth herein.

180. This claim is brought on behalf of former Intermix shareholders who were harmed by the 2005 Individual Defendants' abdication of their fiduciary duties in connection with the sale of Intermix.

181. The 2005 Individual Defendants violated fiduciary duties of care, loyalty, good faith, fair dealing, candor and independence owed to the public shareholders of Intermix, engaged in unlawful self-dealing, acted to put their personal interests and/or the interests of News Corp. ahead of the interests of Intermix shareholders, and/or aided and abetted others in doing so.

182. By the acts, transactions and courses of conduct alleged herein, the 2005 Individual Defendants, individually and acting as part of a common plan, unfairly deprived plaintiff and other members of the Class of the true value of their investment in Intermix.

183. The 2005 Individual Defendants violated their fiduciary duties by entering into the Acquisition with News Corp. without regard to the fairness of the Acquisition to Intermix's shareholders.

184. As demonstrated by the allegations above, the 2005 Individual Defendants failed to exercise the care required, and breached their duties of loyalty, good faith, fair dealing, candor and independence owed to the shareholders of Intermix, because, among other reasons:

(a) they failed to take steps to maximize the value of Intermix to its public shareholders and they took steps to avoid competitive bidding, to cap the price of Intermix's stock and to give the 2005 Individual Defendants an unfair advantage, by, among other things, failing to solicit other potential acquirors or alternative transactions;

(b) they ignored or did not protect against the numerous conflicts of interest resulting from the 2005 Individual Defendants' own inter-relationships and/or self-dealing in connection with the Acquisition;

(c) they engaged in self-dealing using their control of the sales process to divert millions of dollars in personal benefits to themselves and those associated with the defendants in derogation of their fiduciary responsibilities to plaintiff and the Class; and

(d) they failed to disclose material information and/or made material misrepresentations to shareholders regarding among other things, the true value of the Company and the true reason for entering into the Acquisition, as set forth in ¶¶129-54.

185. By reason of the foregoing acts, practices and course of conduct, the 2005 Individual Defendants breached their fiduciary obligations toward plaintiff and the other members of the Class.

186. The foregoing breaches of fiduciary duty implicate the 2005 Individual Defendants' duties to Intermix shareholders of loyalty and good faith, and thus are not subject to ratification.

187. As a result of the actions of the 2005 Individual Defendants, plaintiff and the Class have been damaged in that they have not received their fair portion of the value of Intermix's assets and businesses and have been prevented from obtaining a fair price for their shares.

COUNT V

For Aiding and Abetting Breach of Fiduciary Duty Against VantagePoint

188. Plaintiff repeats and realleges each allegation as though fully set forth herein.

189. VantagePoint actively aided and abetted the other defendants' breaches of their fiduciary duties owed to the plaintiff and the Class by knowingly participating

in the breaches of duties of loyalty, candor and care by, among other things, assisting in consummation of the Acquisition, all of which have damaged Intermix's shareholders.

COUNT VI

For Unjust Enrichment Against Defendants Carlick and Sheehan

190. Plaintiff incorporates by reference and realleges each and every allegation set forth above as though fully set forth herein.

191. By their wrongful acts and omissions, certain of the defendants were unjustly enriched at the expense of and to the detriment of Intermix's public shareholders.

192. In particular, Carlick and Sheehan, through their association with VantagePoint were unjustly enriched via the receipt of the premium for their preferred shares, which they procured in connection with the VantagePoint Transactions, which transactions were put in place only as a result of uninformed shareholder approval, as set forth in ¶¶43-73. Carlick and Sheehan were only able to secure a premium for their preferred shares in connection with the Acquisition because they specifically bargained for such a premium at the expense of Intermix common stockholders, as set forth in ¶¶74-119.

193. As a result of the foregoing misconduct, Intermix common stockholders were impoverished, in that:

(a) the VantagePoint Transactions resulted in a dilution of the equity of Intermix common stockholders via issuance of the preferred shares to Carlick and Sheehan and the effect of the VantagePoint Transactions on the ability of the Company to utilize its federal and state NOLs; and

(b) the premium Carlick and Sheehan secured for their preferred shares in the Acquisition resulted in a commensurate reduction in the amount of consideration that Intermix common stockholders received in the Acquisition.

194. The enrichment secured by Carlick and Sheehan as a result of the preferred shares procured in connection with the VantagePoint Transactions resulted in a commensurate impoverishment to Intermix common stockholders, as set forth above.

195. Carlick and Sheehan procured their enrichment without justification, in that, among other things, Carlick and Sheehan were corporate fiduciaries who were required to act in furtherance of the interests of the Company's stockholders collectively, instead of looking exclusively to their own interests.

196. Plaintiff has no remedy for the misconduct set forth above except for any remedy as may be directed via the equitable powers of this Court.

197. Plaintiff, as a shareholder and representative of Intermix, seeks restitution from these defendants, and each of them, and an order of this Court disgorging all profits, benefits and other compensation obtained by these defendants, and each of them, from their wrongful conduct and fiduciary breaches.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment as follows:

A. Declaring this action to be a proper class action pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the Class;

B. Awarding plaintiff and the member of the Class compensatory and/or rescissory damages;

C. Awarding plaintiff and the member of the Class pre-judgment and post-judgment interest, as well as reasonable attorneys' fees, expert witness fees and other costs;

D. Awarding extraordinary, equitable and/or injunctive relief as permitted by law, equity and the federal statutory provisions sued hereunder, and any appropriate state law remedies; and

E. Awarding such other relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

DATED: February 8, 2008

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DECLARATION OF SERVICE BY UPS DELIVERY

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 655 West Broadway, Suite 1900, San Diego, California 92101.

2. That on February 8, 2008, declarant served by UPS, next day delivery, the **CONSOLIDATED SECOND AMENDED COMPLAINT** to the parties listed on the attached Service List. Declarant also served the parties by facsimile.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 8th day of February, 2008, at San Diego, California.

Alison K Sloan

ALISON K. SLOAN

INTERMIX MEDIA (FEDERAL)
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